THE INTERNATIONAL
Teamster
DEDICATED TO SERVICE

MAY 1960

Federal Court House
Washington, D.C.

In This Issue: The Union and the Monitorship

the teamsters salute CHICAGO

CHICAGO, capital of the Heartland of America, is a center of more than mere geography. It is a hub of railroad activity, of trading in the great agricultural market, of the region of finance, of the giant meat-packing industry, of convention activity.

Founded relatively late in U. S. history, it became a town in 1833 and, when it was virtually consumed by fire in 1871, already had a population of over 306,000. It early became a rail center and the home of many industries supplying the agricultural economy springing up in the Middle West. Today this city, once a remote fur trading post, is the nation's second-largest with over five million people in its metropolitan area. Rail capital of the nation, it is the focal point of 22 trunk railroads with more than 1,770 trains arriving or departing daily; one every 48 seconds. Every day more than 292,000 commuters and 56,000 through rail passengers stream through Chicago. The claim is made that more tonnage clears the port of Chicago than goes through the Panama Canal and this port activity is now facing an additional boom with the completion of the St. Lawrence Seaway.

The Chicago stockyards are like nothing else in the world. Here 50 great plants annually process over 12 million animals. A convention center, the city has 135,000 first-class hotel rooms and a variety of entertainment for the delegates ranging from symphonies to crackling jazz that has come to be known as "Chicago Style." Nine U. S. Presidents have been nominated in political conventions held here.

Serving many of the needs of this giant producer and distributor, termed by Carl Sandburg "The City of the Big Shoulders," is Teamsters' Joint Council 25 and its 42 local unions. The International takes pleasure in saluting the approximately 142,500 Teamsters of Chicago, their families, and the millions of Chicagoans whom they serve.

THE INTERNATIONAL
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IN THE

United States District Court

FOR THE DISTRICT OF COLUMBIA

JOHN CUNNINGHAM, ET AL.,
PLAINTIFFS,

v.

JOHN F. ENGLISH, ET AL.,
DEFENDANTS.

CIVIL ACTION NO. 2361-57

The Board of Monitors: Its Origin and Its Role

THE Board of Monitors resulted from a lawsuit filed by the so-called "13 rank-and-filers" from New York City, represented by Godfrey P. Schmidt, which challenged the results of the October, 1957, convention, and asked that a new convention be held.

Under the original decree which set up the monitorship, they were charged with these duties:

To protect the rights of individual members and subordinate bodies of the union, particularily in the right to vote periodically for elective officers; the right to honest, advertised elections; the right to fair and uniform qualifications to stand for office; and the right to freedom to express views at meetings. The Board was to "counsel with" the union's executive board and "make recommendations upon review of appeals" taken pursuant to the union constitution.

In addition, the Monitors were to draft a model code of local union by-laws, or model provisions for inclusion therein, "not inconsistent with the International constitution." The decree stated that the General Executive Board "shall recommend for adoption" this code or provisions.

It also stated that the GEB "in consultation with the Board of Monitors shall review and where needed establish accounting and financial methods, procedures and controls" for all International funds. (A subsequent Price, Waterhouse report stated "we are generally impressed with the careful and business-like manner in which these (accounting) functions are performed by the International Union office.")

The consent decree also banned any personal financial conflicts of interest on the part of International officers. (The Monitors have never raised any questions in this area.)

The next provision dealt with trusteed local unions "to the end that trusteeships be removed and self-government restored with all deliberate speed consistent with the best interests of the membership of such locals."

This was the extent of the powers delegated to the Monitors in the original decree. This original decree also stated that "a new convention and election of officers shall be held at any time after the expiration of one year from the date of this order (Jan. 31, 1958) when the General Executive Board by majority vote shall resolve to call such convention and hold such election."

After the IBT General Executive Board issued a call for a convention to be held in March, 1959, in Chicago, the Board of Monitors went into U. S. District Court before Judge Letts and asked for a modification of the original decree.

Judge Letts ruled on Feb. 9, 1959 that the decree should be modified in such a way that "the time for the next convention shall be subject to recommendation by the Board of Monitors to the General Executive Board of the International Brotherhood, with the exact time of holding the convention being subject to the final approval of the court."

The U. S. Court of Appeals refused to accept this wording, in its decision handed down June 10, 1959. It stated that "in providing that the time for the convention shall be subject to recommendation by the Board of Monitors to the General Executive Board of the Teamsters, the exact time being subject to final approval of the court, (this) subjects the court's determination of the time to the initiative of the Monitors. This much is error. The court must retain control, through the Monitors, as well as the defendants (the union) and the plaintiffs (the so-called '13 rank-and-filers') may recommend." The Appeals Court further stated that "in all events, the convention must be called and held within the time specified in the constitution."

In a later judgment handed down by the Appeals Court, it specified that the wording with reference to a convention should state that "a new convention and election of officers shall be held . . . when the District Court shall determine. . . . The plaintiffs, the defendants and the Monitors may make recommendations to the District Court as to the time when the next convention and election should be held . . ."

Judge Letts' decree of Feb. 9, upholding the Monitor petition, also stated that the International "shall comply promptly and fully with all future Board of Monitors' Orders of Recommendation that are reasonable and relevant to the basic purposes of the Consent Decree."

Once again, the U. S. Court of Appeals, on June 10, took issue with Judge Letts, stating that the Monitors "do not have the power to command." The Appeals Court ruling stated that the consent decree "gives the Monitors no mandatory power" and "except as to drafting of proposed by-laws their powers are recommendatory, consultative, and advisory."

The Appeals Court decision also stated that "we realize the desirability of early transition from court supervision to normal organizational management, but the District Court is not required by law, or by the consent decree, to step aside until conditions advance to a point which gives reasonable assurance of new elections in accord with membership rights under the Teamsters' constitution."

IN THIS ISSUE of the *Teamster*, we document the case of The Union and The Monitorship.

During the past few weeks, your hometown newspapers, radio and TV have doubtless been filled with headlines and commentaries on the "removal proceedings" or "ouster trial" against General President James R. Hoffa.

Chances are you will never get the real story. This is the history of the American press when it comes to the labor movement. For that reason, we have devoted this issue of the *Teamster* to the momentous issues that are involved.

In this issue, you will find the word-for-word texts of the various law suits filed in Federal Court in Washington, D. C. These documents spell out in unmistakable terms the story of the present case.

YOU WILL FIND the text of the motion charging U. S. District Judge F. Dickinson Letts with bias and prejudice against General President Hoffa, outlining one by one the basis for this charge.

You will find the text of the motion asking for the disqualification of Monitor Chairman Martin F. O'Donoghue, charging that his continued tenure in office would violate the Canons of Judicial Ethics and the Canons of Professional Ethics.

You will find the text of a motion which presents step by step the answer to the charges involving the so-called "Sun Valley transactions," upon which the Monitors have based their case.

YOU WILL FIND the text of a motion asking for a new convention in which the rights of the membership to control the destinies of this union are set forth.

You will find a report on what a group of Senators and Congressmen said last month about the Union and the Monitorship.

You will find the text of a sworn affidavit by Daniel Maher, the Union's representative on the Board of Monitors, which will give you some insight into the workings of that Board.

You will find a report on a lawsuit filed by 160,000 rank - and - file Teamster members across the country, asking for the right to intervene in the suit in order to protect their interests.

These documents—all of them—are of vital importance to each and every member of this International Union.

For now, the destinies of this International Union are under the supervision of the Federal Courts. But ultimately, the decisions will rest with you.

Judge Letts Disqualifies Self

FEDERAL Judge F. Dickinson Letts disqualified himself in late April from presiding over a civil trial brought by the Board of Monitors against President James R. Hoffa on the basis of the so-called "Sun Valley" charges (see page 11). No violation of law is involved.

Letts acted after President Hoffa filed an affidavit in the U. S. District Court seeking his disqualification on the basis of "bias and prejudice." Letts disqualified himself without admitting the truth of the affidavit. The case was assigned to the court of Judge Joseph R. Jackson.

In the affidavit, Hoffa said that he believes and avers that the Judge "has a personal bias and prejudice against him and a personal bias and prejudice in favor of Martin O'Donoghue, Chairman of the Board of Monitors, and Godfrey Schmidt, a former monitor and an attorney at the present time for five plaintiffs of the original thirteen plaintiffs."

The affidavit continues:

4. The facts and reasons for the belief that such personal bias and prejudice exists are as follows:

(a) He has been informed and verily believes, that the aforesaid Judge F. Dickinson Letts prior to the 1st day of April 1960 on more than one occasion informed Hugh Sidey, member of the Washington staff of Time Magazine, in substance, he would remove affiant, and he was going to remove affiant. When Judge Letts was asked, by the said Hugh Sidey, in substance, why he was so set on removing affiant before he has heard his side of the case, Judge Letts replied, in substance, affiant had nominated Bill Bufalino to be the Teamster Monitor, and he considered that an insult to his court, since Bufalino, technically, would be an officer of his court.

(b) That Judge Letts knew or should have known as a result of many conferences with Monitor O'Donoghue, that said O'Donoghue possessed personal prejudice and animosity toward affiant and further is attempting to oust the affiant as President of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America. Affiant further avers, on information and belief, that Judge F. Dickinson Letts instructed the said Martin O'Donoghue, as Chairman of the Board of Monitors, that he could keep certain matters confidential and exclude the other monitors from participation in, and knowledge of, the business of the Board of Monitors to the probable injury and detriment of the affiant. Said O'Donoghue, in depositions, admitted that he had decided "Hoffa had to go" in August or September of

THE UNION AND THE MONITORSHIP

in Monitor Case

1958. Said Monitor O'Donoghue testified under oath on April 6, 1960:

* * *

"Q. Now tell me this: Let's come back to the question I asked you: When did you first decide, for the good of the International, to use your words, that Hoffa had to be removed as General Executive Board, Mr. Gibbons, Mr. O'Brien, a few other names probably—about 61 people altogether?" (Page 31, transcript of testimony.)

* * *

"A. I think clearly by the middle of September, when they called that convention,—taking it back to the anti-racketeering commission, I would say in August or September of '58—my mind was pretty well made up this decree would never be respected or carried out as long as Mr. Hoffa remained in office." (Page 32, transcript of testimony.)

* * *

"Q. In other words, so we have it on the record, some time around September of 1958 you realized or you came to the conclusion or belief that, in order to have the purpose of this decree realized, Mr. Hoffa has to be removed?

"A. Yes." (Page 33, transcript of testimony.)

* * *

"I think I have discussed it with Jack; I've discussed it with Dean Dugan; I have discussed it with my son—what would happen upon the removal of Mr. Hoffa, and I have no doubt on God's green earth that he is going to be removed." (Page 65, transcript of testimony.)

* * *

"He has no right to hold a book in this International membership. He ought to be expelled from the membership, definitely, in my opinion." (Page 87, transcript of testimony.)

* * *

"Q. Don't you know that Mr. Hoffa never benefited the slightest bit?
"A. You know my position. Let me tell you something.
"Q. Yes. Tell me.
"A. Do you know what tightens our case?
"Q. I don't know.
"A. And I think he is going to be removed.
"Q. You are sure he is going to be removed?
"A. I am certain of that." (Page 105, transcript of testimony.)

(c) That under the terms of the Consent Decree entered in this cause, and as approved and modified by the Court of Appeals, the plaintiffs were to nominate one of the three (3) monitors, the defendants herein were to nominate the second monitor, and the third monitor, the Chairman, would be nominated by the plaintiffs and defendants jointly. Therefore, at all times one of the three (3) monitors would be a party nominated by the defendants who would generally advance the position of the defendants as long as such conduct would not be inconsistent with such party's conscience and with his oath as an officer of the Court.

The party nominated by defendants herein and serving as monitor has been Attorney Daniel B. Maher. The said Daniel B. Maher has repeatedly attempted to resign from the Board of Monitors because of bad health, including serious heart attacks, which prompted his physician to advise him to resign forthwith; that the said Daniel B. Maher, culminating numerous attempts to resign, addressed the Court by letter of April 4, 1960, and did unequivocally refuse to further serve as a monitor. He stated:

"I am unable and unwilling to serve further on the Board. I am likewise disabled from further effective service. I believe I am entitled under this paragraph (Paragraph 2, Consent Decree) to be relieved. The defendants likewise are entitled to such relief.

"My further tenure on the Board in the light of the foregoing would only serve to complicate an already complicated record. Further attempted service by a Monitor, their designee, who is both unable and unwilling, and disabled from effective representation would, in fact and in law, be no representation at all. It would destroy the tripartite nature of the Board and in my judgment completely nullify future Board actions . . .

"I, therefore, reluctantly advise the Court that as of this date I shall no longer serve on the Board."

In spite of the fact that Daniel B. Maher has quit his position of monitor, Judge Letts has refused to fill the vacancy and appoint a successor nominated by defendants, contrary to the terms of the Consent Decree and the Mandate of the Court of Appeals in this cause.

Judge Letts has deprived defendants of any representation whatsoever on said Board of Monitors to the probable injury and detriment of this affiant and the Union he represents, thus causing affiant to believe that Judge Letts has a personal bias and prejudice against affiant.

(d) Judge Letts having removed Lawrence T. Smith, the monitor nominated by plaintiffs, appointed, as successor monitor, one Terence McShane, an agent of the Federal Bureau of Investigation, who resigned from such Bureau to undertake the performance of his duties as monitor.

McShane is not a lawyer and has had no experience in the law relating to, or the practical operation of, labor unions. McShane had nine years of service with the Federal Bureau of Investigation and left such position for a position that could terminate within three months.

Said McShane was nominated by Godfrey Schmidt who at the time of said nomination did not represent a majority of plaintiffs; and, as affiant is informed and verily believes, such appointment was made despite the fact Judge Letts had received a telegram sometime prior to the appointment of McShane from the plaintiffs, stating, in substance, that no person other than the plaintiffs themselves had authority to nominate a successor monitor for the plaintiffs, and informed the Court that the said Godfrey Schmidt had no authority to nominate a successor monitor in their behalf.

Affiant says that the said McShane, while an agent of the Federal Bureau of Investigation and employed by the Department of Justice of the United States, was assigned to investigate affiant on behalf of the

Department of Justice; that said McShane was active in the preparation of criminal proceedings against affiant; and said McShane testified against affiant in the trial of a criminal case in which affiant was subsequently acquitted.

Affiant is informed and verily believes that said McShane is biased and prejudiced against affiant; that he cannot conceivably be objective or give affiant fair and impartial consideration.

Affiant avers on information and belief that Judge Letts knew or should have known all of these circumstances, but nevertheless saw fit to appoint McShane as a monitor. Further, the appointment of McShane in total disregard of his inexperience in the labor field and lack of knowledge of matters presently before the Court is in direct contrast with Judge Letts' refusal to accept Mr. Maher's resignation as is displayed in Judge Letts' letter to Mr. Maher dated April 1, 1960, wherein Judge Letts stated as follows:

"Please be advised that I have given the matter careful thought and because of your familiarity with many matters of importance now pending before the Court, I have come to the conclusion that it would be inappropriate to accept your resignation. . . ."

(e) Affiant in due time, on March 25, 1960, and on March 30, 1960, respectively, filed motions in these proceedings with Judge Letts:

(1) Seeking to disqualify the said O'Donoghue as Chairman of the board of Monitors for the reason that his conduct on the Board was violative of the canons of judicial and professional ethics and that he had forsaken his obligations of impartiality and open-mindedness and had pre-judged, adversely to affiant, those issues as to which the Board of Monitors was required to gather information and report to the court; and

(2) A motion for temporary and permanent injunction and vacating the Order setting the date of hearing on the Interim Report for the reason that such procedure grossly violated the rulings, opinion and mandate of the Court of Appeals in this case, and that the Court was without jurisdiction to grant the specific relief prayed for by the majority of said Board of Monitors in said proceedings.

That it was of the utmost urgency and of vital necessity that both of these motions be submitted, and evidence in support thereof heard and disposed of, prior to the hearing on the Interim Report before Judge Letts, set for April 27, 1960.

That although there was adequate time to hear and dispose of these motions so that affiant could, if necessary, appeal to the Court of Appeals in advance of the hearing date, Judge Letts did not act on either of these motions except to extend the time to April 15, 1960 and April 18, 1960 respectively, for the Monitors' attorney to answer the above motions; thus depriving affiaint of his right to adequately defend himself under the law.

'Favoritism Toward Schmidt'

(f) That Judge Letts, as affiant is informed and verily believes, has displayed favoritism toward Godfrey Schmidt, who has never represented Labor Unions but only employers, and who is against peaceful picketing, and who is in favor of right to work laws and who seeks to expel James R. Hoffa from the International Union not only as its General President but even as a member.

The said Godfrey Schmidt was the original attorney for the parties plaintiff and is present attorney for five of the plantiffs and for a period of time was a monitor on the three-man Board of Monitors.

After the entry of the Consent Decree the said Judge Letts in the presence and hearing of the original parties plaintiff put his arm around the said Schmidt and stated in substance, "You are my kind of a lawyer." This fact is supported by the testimony under oath of Godfrey Schmidt. (Pages 83 and 84, Transcript of Schmidt deposition, April 8, 1960.)

Further basis for affiant's belief in the personal bias and prejudice of Judge Letts toward him on the one hand and favoritism toward Godfrey Schmidt on the other, is shown by the appointment of Lawrence Smith as monitor. The propriety of Godfrey Schmidt to act as monitor was questioned by the Court of Appeals because of Mr. Schmidt's legal representation of employers whose interests were or might be in conflict with the interests of the Teamsters International Union under monitorship.

When Schmidt resigned as a monitor, immediately Lawrence Smith was appointed a monitor by Judge Letts upon nomination of the plaintiffs although Smith had been a legal associate of Godfrey Schmidt for a considerable time and had done legal work for the same employers whom Mr. Schmidt represented as legal counsel.

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While Lawrence Smith voted the same as Chairman O'Donoghue no question was raised of his fitness to act as monitor. But when the views of Lawrence Smith, however, conflicted with the views of Chairman O'Donoghue on matters of Board policy and he became engaged in controversy with Godfrey Schmidt, and, when Lawrence Smith publicly stated that he believed the purpose of the Board of Monitors primarily should be to correct improper union operations and not to "GET HOFFA," then Lawrence Smith was removed by Judge Letts.

This action of Judge Letts completely disregarded the wishes of seven of the original thirteen plaintiffs. On December 28, 1959, these seven plaintiffs sent a copy of the following telegram to Judge Letts and received no reply.

"Dear Judge: Please be advised that if there should be a vacancy on the Board of Monitors, Mr. Schmidt our attorney did not have, does not have and will not have any authority to designate in our names any person for the vacancy. If and when there is a vacancy we will at your Honor's convenience make known to you any suggestions you would be pleased to consider."

WHEREFORE, defendant James R. Hoffa moves that the Honorable Judge F. Dickinson Letts proceed no further in this cause, and that another judge be assigned to hear this action.

O'Donoghue Charged With Ethical Conflict

Lawsuit Seeks Monitor Ouster

LAST month President Hoffa presented a motion to the U. S. District Court asking for an order disqualifying Martin F. O'Donoghue as chairman and member of the Board of Monitors.

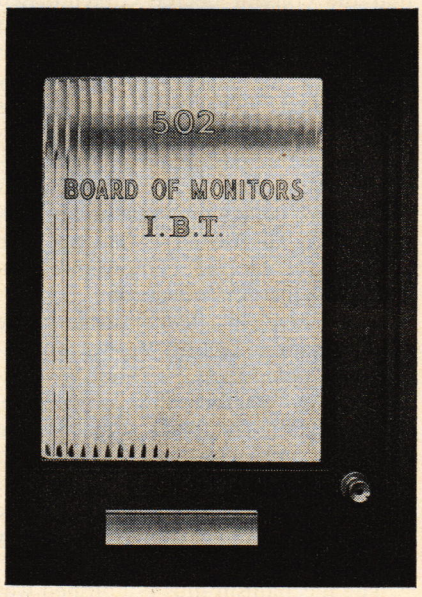
The motion was made on the grounds that O'Donoghue's "continued tenure in that office would violate both the Canons of Judicial Ethics and the Canons of Professional Ethics;" and that "he has forsaken the obligation of impartiality and open-mindedness which is inherent in his position of chairman of the Board of Monitors jointly nominated by both plaintiffs and defendants; and has prejudged the issues as to which the Board of Monitors has the duty to gather information and to report its recommendations to the Court."

The motion further stated:

1. Mr. Martin F. O'Donoghue served actively as counsel for the defendants from the institution of this litigation until November of 1957 and was paid the sum of $45,000.00 for his services. Mr. Patrick C. O'Donoghue, the son and law associate of Martin F. O'Donoghue, who started as co-counsel for the defendants, remained as one of their counsel through the trial in December of 1957 and January of 1958. As counsel for the defendants, Martin F. O'Donoghue, his son, Patrick C. O'Donoghue, and his partner, Thomas X. Dunn, filed an answer on behalf of the defendants in October of 1957.

2. The complaint alleged, in paragraph 43, the commission by the defendants and those in concert with them of "many and serious violations of law and of the IBT Constitution and many flagrant irregularities . . .", among which, as alleged in subparagraphs 21-23, were:

"(21) In case [sic] where the International Organization or its 'subordinate bodies' sponsored or promoted real estate developments allegedly for the benefit of rank-and-file membership or for some other alleged union purpose, there were, because of defendants' misfeasance, malfeasance or nonfeasance, frequent and substantial borrowings of money by union officials (including defendants, especially Hoffa, Brewster, Beck and



Brennan) from real estate promoters or agents as to whom the said union-officials borrowers are, in effect, principals.

"(22) Defendants and officials in concert with them used their official position and the fact that large sums of union monies were on deposit with particular banks for the purpose of influencing these banks to lend money to friends of defendants or to union leaders or to persons in concert with them or for some other selfish purpose which violates the IBT Constitution and the AFL-CIO Constitution.

"(23) Acquisition by union officials (including defendants, especially Hoffa, Beck, Brewster and Brennan) by means of union funds or on the basis of union position or options to buy real or personal property or interest in developments or ventures, the success of which depended upon purchases by rank-and-file members or by persons subject to the control and domination of those thus acquiring the option."

In answering these charges, Mr. O'Donoghue stated:

"43. Defendant denies all of the allegations contained in Paragraph 43. Further answering, Defendant states that these allegations are irrelevant, immaterial and have no bearing upon the issues of the validity of the Convention nor do the allegations meet the requirements of Rule 8(a) and (e), they being only conclusionary and argumentative."

He included in the answer a motion to strike certain portions of the complaint, among them:

"7. Paragraph 43 in its entirety and subparagraphs 1 through 44. They contain allegations of alleged wrongs or misdeeds of Beck, Hoffa, Brennan and Brewster that have been committed many years ago and they have no relevance, competency or probative connection with the issues in this case. They are also redundant, scandalous matters and allegations."

3. The issues thus raised by the pleadings went to trial in December of 1958 after Mr. O'Donoghue's replacement as defendants' trial counsel. In the course of twenty-two days of trial, purported evidence was introduced to prove the allegations of the complaint, including paragraph 43, subparagraphs 21-23. The purported evidence introduced consisted largely of extracts from testimony before the McClellan Committee, including testimony concerning the so-called "Sun Valley" transaction, hereinafter referred to. The case having been settled by consent decree after the plaintiffs' evidence, there was no occasion for the defendants to introduce rebuttal evidence. As this Court stated in its Memorandum Opinion of December 11, 1958:

"The Court was not called upon to weigh the evidence which had been adduced."

4. The consent decree was intended

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by all parties and by the Court as a settlement of the issues posed by the pleadings. In presenting the order to the trial court, counsel for the defendants described it as "a disposition of this case", bringing the case to "an equitable conclusion". Transcript of proceedings of January 22, 1958, pp. 3721, 3722. Mr. Godfrey P. Schmidt, speaking for the plaintiffs, said:

> *"If the Court please, may I say in the first place that I join in everything that Mr. Williams has stated to this Court, and my colleagues will after me.*
>
> *"I have gone over this consent order and the arrangements for settlement of this very important litigation with great attention to every detail, and I think that it is as fine a settlement of as difficult a problem as I have ever been confronted with in my life." Id. at 3734-35.*

Mr. Schmidt's co-counsel, Mr. Thomas J. Dodd, declared that he was "pleased with the result" and subscribed to what had been said by other counsel. *Id.* at 3736. The Court, for its part, complimented counsel for "a settlement of these great issues". *Id.* at 3738. Nowhere in the voluminous record of the case in this Court or on appeal does there appear *any* suggestion of a belief by *any* of the parties that the consent decree contemplated disciplinary or other action against any of the defendants by reason of any of the matters placed in issue by the pleadings. The various allegations of the complaint, including the matters alleged in paragraph 43, subparagraph 21-23, as to none of which this Court was called upon to make findings, were all treated as having been disposed of by the compromise embodied in the consent decree.

The decree, in effect, brushed aside the accusations against the various individual defendants, without a decision as to whether they were true, and sought to establish a mechanism whereby such administrative reforms could be made in the International's procedures as would prevent in the future such wrongs as were allegedly committed in the past.

The mechanism thus established was a Board of Monitors to advise, counsel with and make recommendations to the General Executive Board of the International and to report to the Court periodically on the course of their work. The Court, as has now been held, is empowered to order the defendants to take actions in fulfillment of their obligations under the consent decree, if, after affording them a hearing on matters reported by the Board of Monitors, the Court finds such actions necessary.

'No Consent to O'Donoghue's role'

5. The Monitorship established under the consent decree operated until May 13, 1958, under the chairmanship of the Honorable Nathan Cayton. Upon the latter's resignation, the Court, on the joint nomination of all parties, appointed Mr. O'Donoghue to succeed him. Mr. O'Donoghue assumed the chairmanship of the Board of Monitors on May 27, 1958.

In consenting to the appointment of their former counsel to the Board of Monitors, the defendants contemplated that he would perform the role set forth in paragraph 4 *supra*. While the parties may be presumed to have contemplated that the Board of Monitors, including Mr. O'Donoghue, might urge the Court in their periodic reports to require the defendants, under pain of contempt, to execute their obligations under the consent decree, the defendants did not contemplate, and cannot be presumed to have contemplated, that the Monitors would ever assert the right to seek the expulsion of the officers installed under the consent decree.

The defendants, therefore, did not consent to the performance of the latter role by Mr. O'Donoghue, their former counsel, and cannot be held to have waived the violation of his ethical obligations which is inherent in such a role. Indeed, not until recently have any of the Monitors undertaken to perform such a prosecutorial role and not until December 7, 1959, did this Court authorize such a course. Shortly thereafter, however, defendants' counsel learned from this Court that Mr. O'Donoghue had submitted his resignation and that its acceptance by the Court would await the designation of a successor. In the circumstances, the question of Mr. O'Donoghue's qualifications was moot.

On January 7, 1960, it was learned from the Court that Mr. O'Donoghue had changed his mind and would remain as chairman of the Board of Monitors until disposition of charges against General President Hoffa. On January 9, 1960, one of the defendants' counsel called upon Mr. O'Donoghue and informed him of defendant Hoffa's position as to his qualifications, as herein stated, and stated to him that the instant motion would not be filed until he had had an opportunity to consider whether he should voluntarily withdraw.

On January 12, 1960, Mr. O'Donoghue stated that he had considered the situation and would not voluntarily withdraw. Defendant Hoffa's instant objection is, therefore, timely and his right to object has not been waived.

6. On September 14, 1959, Mr. O'Donoghue, as Chairman of the Board of Monitors, with one other Monitor concurring, filed with the Court an Interim Report requesting the Court (1) to require defendant Hoffa "to account fully" concerning the very transactions which had been alleged in the portion of the complaint quoted in paragraph 2 *supra*, which allegations, as appears from the said paragraph 2, Mr. O'Donoghue, as counsel for the defendants, had denied and had denounced as "irrelevant", "immaterial", "redundant" and "scandalous"; (2) to authorize the Monitors to utilize discovery procedures under subpoena powers to investigate the alleged transactions; and (3) if, as a result of such investigation and after a hearing, the Court finds in the alleged transactions a violation of the consent decree, to take against defendant Hoffa such action as may be warranted, including, *inter alia*, action looking toward his removal from office as General President and his expulsion from membership in the International.

In proposing the foregoing course of action, Mr. O'Donoghue, not content merely to take a position contrary to the position he had taken as counsel for the defendants, actually undertook, in effect, to enter a confession for his former clients. He stated orally to the Court, referring to the allegations of the complaint quoted in paragraph 2 *supra*, that "the evidence showed misuse and a breach of those fiduciary

obligations by officers of locals and International."

Transcript of proceedings of November 24, 1959, p. 40. Mr. O'Donoghue made this statement without regard to the fact that this Court itself had said that it "was not called upon to weigh the evidence that had been adduced." Memorandum Opinion of December 11, 1958. Moreover, at the abortive trial at which this so-called evidence had been adduced, Mr. O'Donoghue's son and associate, Patrick C. O'Donoghue, represented the defendants and presumably would have participated in the presentation of rebuttal evidence if the case had not been compromised.

7. The members of the Board of Monitors are officers of the Court under paragraph 2 of the consent decree of January 31, 1958. As such, they must "have the strictest probity and impartiality." Canon 12 of the Canons of Judicial Ethics. The standard under which they must conduct themselves are, if anything, stricter—certainly not less strict—than those imposed on mere attorneys.

'Basis for disqualification'

8. For attorneys, Canon 37 of the Canons of Professional Ethics provides:

> *"It is the duty of a lawyer to preserve his client's confidences. This duty outlasts the lawyer's employment, and extends as well to his employees; and neither of them should accept employment which involves or may involve the disclosure or use of these confidences, either for the private advantage of the lawyer or his employees or to the disadvantage of the client, without his knowledge and consent, and even though there are other available sources of such information . . ."*

Canon 6 of the Canons of Professional Ethics provides:

> *"It is unprofessional to represent conflicting interests, except by express consent of all concerned given after a full disclosure of the facts. Within the meaning of this canon, a lawyer represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose.*
>
> *"The obligation to represent the client with undivided fidelity and not to divulge his secrets or confidences forbids also the subsequent acceptance of retainers or employment from others in matters adversely affecting any interest of the client with respect to which confidence he has been reposed."*

Thus, under the Canons of Professional Ethics, it is generally held that "When an attorney represents a litigant in a case involving the very matters concerning which he originally represented the party now on the other side, the attorney will be disqualified." *Fleischer* v. *A.A.P., Inc.*, 163 F. Supp. 548, 551 (S.D.N.Y. 1958); see also cases there cited. Our Court of Appeals has accepted the general rule that a lawyer may not assume a position hostile to a former client concerning the same matter as to which he formerly represented that client. *Hawley* v. *Hawley*, 72 App. D.C. 376, 114 F.2d 745, 150 (1940).

That Mr. O'Donoghue has now assumed a position hostile to his former client, defendant Hoffa, concerning the same matter as to which he had formerly represented him is plain.

9. In support of this motion, the defendant Hoffa need not specify or prove the confidential information which Mr. O'Donoghue acquired as his counsel. "In cases of this sort the Court must ask whether it can reasonably be said that in the course of the former representation the attorney *might have acquired information* related to the subject of his subsequent representation. If so then the relationship between the two matters is sufficiently close to bring the later representation within the prohibition of Canon 6." *T. C. Theatre Corp.* v. *Warner Bros. Pictures, Inc.;* 113 F.Supp. 265, 269(S.D.N.Y. 1953).

Where there is a substantial relationship of the present issues and subject matter to the former issues and subject matter, the law has created "an 'irrebutable inference' that confidential information, material and relevant to the instant case, was given to the attorney. . . ." *Fleischer* v. *A.A.P., Inc.*, 168 F.Supp. at 552.

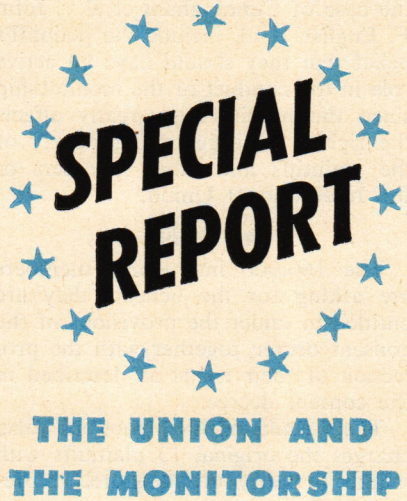
In view of the virtual identity of the issues and subject matter of Mr. O'Donoghue's Interim Report to those involved in his former representation of the defendant Hoffa, this "irrebutable inference" applies.

'O'Donoghue in conflicting situation'

10. The fact that Mr. O'Donoghue has been a Monitor for about 18 months does not preclude the present motion for disqualification. As shown in paragraphs 4 and 5, *supra*, not until now has Mr. O'Donoghue formally undertaken the role which conflicts with his earlier position as defendants' counsel. Moreover, mere delay is no defense to a motion to disqualify, because "The Court's duty and power to regulate the conduct of attorneys practicing before it, in accordance with the Canons, cannot be defeated by the laches of a private party or complainant." *Empire Linotype School* v. *United States*, 143 F.Supp. 627; 631 (S.D.N.Y. 1956).

11. *While it is true that a party's right to disqualify his former attorney may be waived* and that such waiver need not be express, but may consist merely of allowing the attorney to proceed in the case without objecting, there can be no waiver, either express or implied, unless it appears that the former client has had full knowledge of all the facts upon which the objections can be grounded. See *Hawley* v. *Hawley*, 72 App. D.C. at 381, 114, F.2d at 750; *In re: Boone*, 83 Fed. 944 at 952.

In the instant case the defendants had agree to the appointment of Mr. O'Donoghue as Chairman of the



Board of Monitors. As shown in paragraphs 4 and 5 *supra,* they did not agree to his assumption of his present prosecutorial role and neither knew nor could have known that he would adopt a position contrary to that he had taken when he was their attorney. When the Court authorized Mr. O'Donoghue to follow his prosecutorial course, defendant Hoffa filed the instant motion. Under the circumstances, therefore, there was neither express nor implied waiver of his right to object.

1. It has sometimes been said that, so far as the two Monitors nominated by the plaintiffs and defendants respectively are concerned, the requirement of Judicial Canon 12 that officers of the court maintain "the strictest . . . impartiality" is of but limited applicability. See, for example, the argument of Mr. Godfrey P. Schmidt in defense against the allegation that he was involved in conflict of interest. The argument, as to the latter two Monitors, is that, although they are officers of the court, the parties contemplated that they would generally advance the positions of the parties who nominated them, so long as this would not be inconsistent with their own consciences and with their oaths as officers of the Court. The third

THE UNION AND THE MONITORSHIP

Monitor, the Chairman of the Board, is, however, in a different position.

As provided by paragraph 2 of the Consent Decree, *he was jointly nominated by both plaintiffs and defendants.* The clear intent of this provision is that the Chairman, as distinct from the other two Monitors, is to have no pre-disposition in favor of either side, but is to remain strictly impartial within the full meaning of Canon 12. Indeed, Mr. O'Donoghue has publicly referred to himself as "The Impartial Chairman".

2. As appears from the affidavit of Monitor Daniel B. Maher, (see page 26), Mr. O'Donoghue, in violation of his obligation of strict impartiality, has repeatedly revealed that he has prejudged the General President of the International as deserving ouster, in advance of the proceedings described in paragraph 6 of part A hereof, which are designed to determine whether or not the General President does in fact deserve ouster.

The same affidavit shows, moreover, that Mr. O'Donoghue has also prejudged other defendant officers of the International as deserving ouster. By such pre-judgment and open expression of hostility against the defendants with respect to the very matters which are before him for administration as an officer of the Court, Mr. O'Donoghue has disqualified himself as Chairman of the Board of Monitors.

CONCLUSION

It is respectfully submitted, in the light of the foregoing, that the Court must disqualify Mr. O'Donoghue as Chairman or member of the Board of Monitors and proceed, under paragraph 2 of the Consent Decree, to appoint a successor.

160,000 Members Move To Intervene

OVER 160,000 rank-and-file members of the Teamsters' Union from nearly 100 local unions throughout the United States have instituted legal proceedings to permit members of the International Union to participate in the affairs of the present monitorship.

Filed in February

These proceedings seeking to intervene in the case were filed in the U. S. District Court for the District of Columbia last February. To date, the Court has not voiced an opinion as to whether or not the membership of the Teamsters have the right to participate in the conduct of the monitorship.

Grounds for the complaint asking for intervention and participation in the case of Cunningham et al v. John F. English et al, include the plaintiff's belief that they should have an active role in the conduct of the monitorship since the monitorship greatly affects the rights, privileges and property of the plaintiffs and other members of the International Union.

Ask Rights

The 160,000 intervening members are asking for the benefits they are entitled to under the provisions of the consent decree together with the protection of their rights as described in the consent decree.

The rank-and-file motion also charges the original 13 plaintiffs with failure to fairly or adequately represent the true interests or views of the entire membership and that they have neglected, failed and refused to consult, advise or ascertain the desires, intentions and needs of the majority of the entire Teamster membership.

Supported by Affidavits

Membership resolutions to intervene in the Court proceedings are supported by affidavits executed under oath by members of each local union seeking participation in the monitorship. The affidavits point up the facts leading up to the membership decisions to intervene, including advance notice of membership meetings, the attendance at these meetings and the vote count of the members considering the resolutions.

Motion Refutes 'SUN VALLEY' CHARGE

THE so-called "Sun Valley" charges upon which the Board of Monitors base their case against President James R. Hoffa were answered fully last month as part of a brief filed in U. S. District Court.

The explanation of the entire transaction, printed below for the information of the membership, described the Monitor charges as "clearly without merit."

Here is the story of "Sun Valley," excerpted in full from the brief itself:

(11) The charge by the majority members of the Board of Monitors that James R. Hoffa's acquisition of an option to purchase a substantial percentage of the stock of Sun Valley, Inc., is a violation of the fiduciary standards required by paragraphs 5 and 6 of the Consent Order is clearly without merit. This option, as the Monitors well know, was acquired on or about April 15, 1955, in consideration of James R. Hoffa's personal endorsement of the Sun Valley note at the Commonwealth Bank in the City of Detroit, Michigan, and obviously does not represent a conflict of interest or a proscribed business venture.

The majority members of the Board of Monitors have failed to report to this Honorable Court that on December 31, 1957, prior to the entry of the Consent Decree in this case, the Florida National Bank at Orlando, in a report filed with the auditors for Local 299, stated that there were no liabilities contingent or otherwise affecting the deposit in question and that the balance was "subject to withdrawal by check".

(12) The majority members of the Board of Monitors further failed to report to this Honorable Court, that C. Earnest Willard, President of the Florida National Bank at Orlando, Florida, under date of November 21, 1956, wrote to Byrus Lee, Assistant Co-ordinator in charge of loans of the chain of banks of which the Florida National Bank at Orlando was a member:

"Sun Valley, Inc., is a private enterprise separate and apart from the Truck Drivers Union. Mr. James R. Hoffa is President of the Truck Drivers Local 299, Detroit, and has authority to place their accounts where he wishes, although the charter does not give him authority to pledge or guarantee that these funds will remain on deposit."

MONITORS INFORMED

(13) The majority members of the Board of Monitors have charged that the defendants violated paragraph 5 of the Consent Order and the fiduciary standards therein established by opening a non-interest-bearing account in the name of Truck Drivers Local 299, on or about October 25, 1954, in the Fidelity Bank and Trust Company of Indianapolis, Indiana, in the amount of $125,000, although said majority members concede that they were informed by James R. Hoffa, in a letter dated August 31, 1959, that the $125,000 had been withdrawn from the Fidelity Bank and Trust Company and deposited in a savings account at the Public Bank of Detroit, Michigan.

The Monitors had never in the past considered that this alleged violation was worthy of review or consultation with either the General Executive Board or James R. Hoffa until August 11, 1959. The charge is moot. It is not subject to any corrective action by this Honorable Court. It is utterly without merit, and should never have been incorporated in the Interim Report.

(14) The majority members of the Board of Monitors have charged that the defendant violated paragraph 5 of the Consent Order and the fiduciary standards therein established by opening a non-interest-bearing checking account in the name of Truck Drivers Local 299 in the amount of $50,000 in the Commercial State Bank and Trust Company of New York on or about October 29, 1956, and maintaining this account until on or about September 22, 1958.

There is simply no other charge by the majority of the Board of Monitors that this bank transaction violated paragraph 5 of the Consent Order and the fiduciary standards therein, although they do state that

a Mr. Benjamin Dranow, in 1956, had arranged a meeting between James R. Hoffa and an official of the Commercial State Bank and Trust Company of New York (a bank which at that time had deposits in excess of $100,000,000); that prior to the deposit, Mr. Dranow's checking account showed over-drafts which continued and increased subsequent to the deposit; that in October, 1956, Mr. Dranow purchased a department store in Minneapolis, Minnesota; and that the Michigan Conference of Teamsters loaned this store $200,000 and the Central States, Southeast and Southwest Pension Fund loaned the store $1,000,000.

The majority of the Board of Monitors did not inform the Court that the $200,000 loan was made not by the Michigan Conference of Teamsters, of which Mr. Hoffa is president, but rather by the Michigan Conference of Teamsters Health and Welfare Fund, which is a trust fund qualified under Internal Revenue laws and managed jointly by employer and employee trustees, and that Mr. Hoffa is not a trustee of and has no control over the said Fund.

Further, the Monitor majority did not inform the Court that the said $200,000 loan was fully repaid with interest in June 1957 out of the $1,000,000 loan made by the Central States, Southeast and Southwest Areas Pension Fund, which is also a trust fund qualified under Internal Revenue laws and which Fund is jointly managed by sixteen employer and employee trustees, of whom Mr. Hoffa is one; that the said $1,000,000 loan was made on adequate security and after an independent appraisal; that all payments of principal and interest on the loan are up to date; and that the aforementioned Benjamin Dranow is no longer a stockholder of the department store which received the loan.

The Monitors had never in the past considered this alleged violation worthy of review or consultation. The charge is moot. It is not subject to any corrective action by this Honorable Court. It is utterly without merit, and should never have been incorporated in the Interim Report.

(15) The charges contained in the majority Monitors' report have and bear no relationship to James R. Hoffa in his capacity as President of the International Union. Further, the Florida bank transaction was involved in paragraph 43, subparagraph 21-23 of the original complaint and was settled by the Consent Decree.

THE UNION AND THE MONITORSHIP

NECESSARY PRACTICE

(16) The monies placed on deposit in the Florida National Bank at Orlando, Florida, the Fidelity Bank and Trust Company of Indianapolis, and the Commercial State Bank and Trust Company of New York had all come from non-interest-bearing accounts in other banks, it being a common and necessary practice of trade unions to keep funds in such non-interest-bearing accounts in order that funds on deposit may be withdrawn at will to meet the immediate demands and requirements of the union and its members and in order that union funds be available for the payment of strike benefits to the striking members and to pay judgments and the expenses of litigation in defense of suits against the union.

James R. Hoffa, as President of Local 299, has authority to direct the deposit of the Local's funds. None of the deposited funds of the Local were pledged by him as security, as evidenced by the letter of the President of the Florida National Bank at Orlando, dated November 21, 1956. Further, James R. Hoffa received advice from those whom he believed to be competent legal counsel that the option he had received from Sun Valley, Inc., was not in violation of paragraph 5 or 6 of the Decree.

The existence of the option was at all times known to each member of the Board of Monitors, including Mr. Schmidt and Mr. O'Donoghue, but none of them, prior to the filing of the instant Interim Report, made any suggestion that there was any violation of paragraphs 5 or 6 of the Decree.

On about April 28, 1958, James R. Hoffa agreed to give to Local 299 any future gain to be derived from the said option; and on November 25, 1958, he executed a waiver of the said option to the Union Land and Home Co., Inc., upon the latter's agreement to pay an amount equal to the interest which would have accrued on the money deposited in the Florida National Bank had said deposit been in an interest-bearing account, and, pursuant to said agreement, the said Union Land and Home Co., Inc., paid to Local 299 the sum of $37,547.89.

(17) The obligations imposed by paragraph 6 of the Consent Decree not only were prospective in nature, but were also confined to conflict of interest situations which grew out of financial interest in businesses with which the International Union bargains collectively, or which compete with other businesses with which the union bargains collectively or which do business with the International.

The Board of Monitors, as originally constituted, in endeavoring to ascertain compliance with the Decree, made it clear that it construed the Decree to be limited as above set forth. The business entities referred to in the majority Interim Report do not fall within such categories.

DIRECT CONFLICT

(18) The request by the majority of the Board of Monitors that this Court set down the matters contained in their Interim Report for an early hearing and that, after such hearing, in the event that the Court finds that the Decree has been violated, the Court take such action as may be warranted, including, without limitation, removal of defendant Hoffa from office, etc., is in direct conflict with the majority members' own interpretation of the construction of this Consent Decree, briefed, submitted, and argued before the Court of Appeals, and Court of Appeals adopted in that Court's opinion. The following extract from their brief submitted to the Court of Appeals are illustrative:

"The Monitors have no mandatory powers to order the appellants to comply with a recommendation but if the facts show the necessity for corrective action in an area where appellants have assumed affirmative obligations and appellants refuse to take corrective action, the Monitors may petition the Court after full hearing to issue an order of compliance.

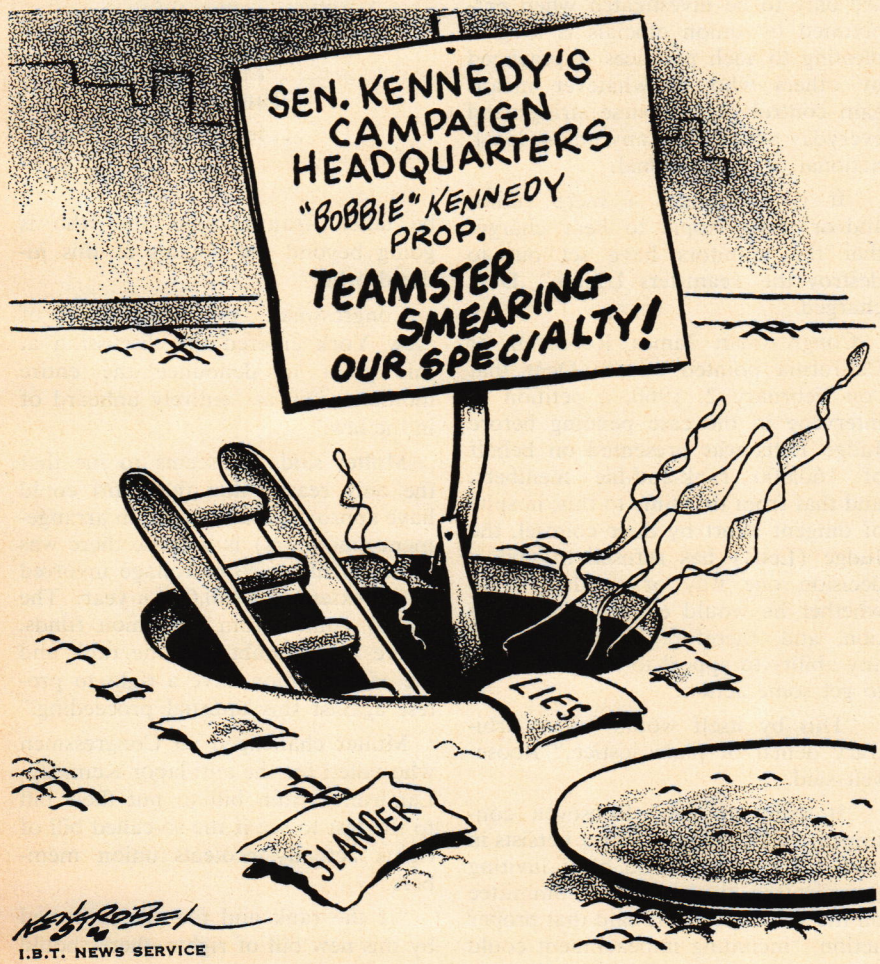
"The enforcement process envisioned by the Court below respects the due process rights of appellants for if they have a good faith doubt as to any Recommendation of the Monitors, they may petition the Court below or even refuse to comply. This is true as to past or future recommendations of the Monitors. If appellants do not comply, the Monitors may petition the Court and after full hearing, if the facts warrant, the Court can order appellants to take corrective action required by their affirmative obligations under the Consent Order. Thus there is no delegation of judicial authority to the Monitors and in each instance a court order is required." (P. 6)

"Under Section 5, appellants were bound to require adherence to fiduciary standards. It is submitted that under this Section when the facts concerning Vice-President Brennan were brought to appellants' attention they were obligated to take corrective action to require adherence to fiduciary standards, and if appellants refused, the Court had authority to direct corrective action." (P. 14-15)

"Appellants also deny (App. Br. 26-27) that the Board of Monitors have any authority to consult with Appellants in regard to fiduciary standards imposed on Appellants by Section 5 of the Consent Order. Again even if there is no express power given the Monitors, they certainly have the implied powers as officers of the court to effectuate the basic purpose of the Consent Order to recommend *to Appellants the necessary corrective action when this vital section of the Consent Order has been breached. In addition, who, other than the Monitors, will call to the attention of the Court below the breach of this section of the Order* so that the court, after proper hearing and proof, may issue an order of compliance." *(Emphasis added.) (P. 19)*

"5/ It should be noted that the Court below directed appellants to comply with all future Monitor Orders of Recommendations that are reasonable and relevant. The Board of Monitors do not interpret this portion of court order, as appellants have argued, as a blind mandate that appellants comply ipso factor *with the Monitors' recommended action but merely that appellees adopt an appropriate course of corrective action under the circumstances of each case. The ultimate decision of what is the appropriate course of action in a given situation can only be decided by the Court.*

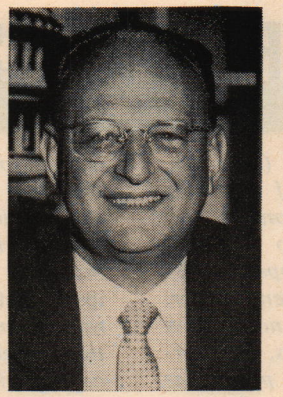
If either appellants or Monitors have a question over what is the appropriate course of action to follow, recourse can always be had to the Court. Further, as has been pointed out, if, after a recommendation of a course of action is made by the Monitors, the Monitors envision no necessity of petitioning the Court so long as appellants adopt a course of action that is appropriate. This is evidenced as has been previously pointed out by the Monitors' acceptance of the alternate appropriate action proposed by Appellants in the case of Local Union 107." (P. 24)



A chart which appeared on page 23 of the Board of Monitors' brief submitted to the Court of Appeals indicates unmistakably the separate phases of the procedure to be followed by the Monitors. The purpose of that chart was, again quoting the very words of the Monitors' brief: "In order that the enforcement process to be used in this case can be more readily understood." This graphically and shockingly illustrates the present turn-about-face action of the majority of the Board of Monitors.

In his brief submitted to the Supreme Court of the United States, dated October 19, 1959, the Chairman of the Board of Monitors showed full awareness of the Court of Appeals ruling on how the "enforcement process was to be used in this case." The majority of the Board of Monitors, after their previous representations, made solely to influence the Court of Appeals and the Supreme Court of the United States, may not now be heard to urge a patently contrary interpretation of the functions of the Monitors and the District Court in relation to the enforcement process.

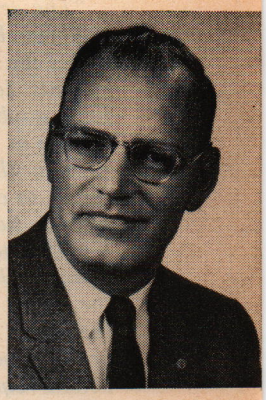
Roosevelt



Multer

Holland

Pucinski



Karth

Eleven Congressmen Call for

"IMPEACHMENT," "Legalized Racket," "Waste of Union Funds," "Tyranny," "Dictatorial," "Arbitrary power and abuse," "Patronage!"

These were just some of the terms by nine Democratic and one Republican Congressmen on the floor of the House of Representatives last month, in a discussion of the situation existing between the IBT and the Board of Monitors.

Approximately 13 pages of the Congressional Record, the record of all Congressional debate, were used during the hour-long discussion of the monitor set-up on April 13.

The outburst came as a result of several hundred rank and file Teamster members protests to their Congressmen. The rank and file pointed out that the monitors were seeking to destroy the Teamsters Union.

They told their congressmen they wanted an immediate convention to elect new officers, and dissolve the Board of Monitors, but said that the monitors refused to allow them to exercise their rights under the Kennedy-Landrum-Griffin law.

Congressman John Dent of Pennsylvania kicked off the discussion when he took the floor of the House to insert in the Congressional Record a copy of a telegram signed by 25 members of Teamsters Local 30 in Jeannette, Pa.

Dent declared: "Many charges have been made against various union officials during Senate hearings both before the committee(s) and in the public media of press, TV and radio.

"However, few lines have appeared in connection with the rank-and-file charges of union members that the monitors are spending union funds at the rate of $2,000 a day or better than $700,000 yearly in their operations as monitors of the union."

Dent went on: "Tyranny, dictatorial and arbitrary power and abuse are elements we seek to eliminate from union activities according to our promises to the public . . . To say that any charges of such practices are only to be investigated when perpetrated by union officials is to give blessing to such practices if practiced by others who by whatever means gain control of the purse strings and everyday activities of any union, local, national or international.

"It is no longer a mere rumor and/or gossip topic to hear charges that the monitors have set out to destroy the Teamsters Union," Dent charged.

Congressman James Roosevelt of California pointed out to Dent that "on February 2, 1960, a petition to intervene in the case pending before Judge Letts was presented on behalf of 160,000 rank-and-file members, and that from that time to this, in spite of diligent effort by their counsel, the Judge (Letts) has refused to give a decision one way or another as to whether he would entertain that motion, and, therefore he has blocked any ability to appeal to a higher court to get some action.

"This by itself would be an arbitrary denial of plain justice," Roosevelt said.

"It seems to me," Roosevelt continued, "if the Judge (Letts) persists in such a course of action he is inviting investigation by the proper committee on the Judiciary." He said that proper action, "including impeachment could

JOHN DENT
. . . led protest

be taken against some one who is going beyond the bounds of this judicial orbit."

Congressman Abraham Multer of New York entered the discussion at this point to denounce the entire monitor setup as "entirely unheard of in the law."

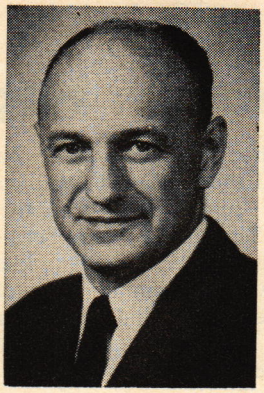
Multer said, "It seems to me that the only reason that the court could have approved that kind of an arrangement (monitors) is because there was some awfully nice patronage involved to the extent of $700,000 a year. The money comes from the union funds. There is no doubt that the rank and file of this union have a right to protest against this unusual proceeding."

Multer challenged all Congressmen who voted for the anti-labor Kennedy-Landrum-Griffin bill to put their bill to the test to see if the so-called bill of rights actually protects union members.

"If the rank and file are protected by this new bill of rights, there should


Shelley


O'Neill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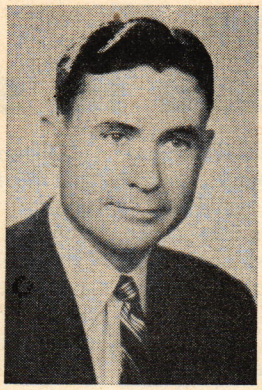
McFall


Sisk

End of Teamster Monitorship

be a convention ordered immediately, and they can voice their opinion under the protection thrown around them by this new bill of rights.

"Certainly they ought to be able to have a free election and name their choice, whoever that may be, who should run this union. The court can then go back to attending to its judicial business and get out of the business of running the union," Multer declared.

Congressman Elmer Holland of Pennsylvania disclosed that he too had received many communications from rank and file Teamster members protesting the monitor setup and demanding an election and convention.

"I say to you, instead of destroying rackets by the Landrum-Griffin bill, we are permitting the existence of a legalized racket under the supervision of a Federal judge.

"The monitors are milking the treasury of the rank and file of the local Teamsters Union at the rate of $2,000 per day . . . . . This entire expenditure could be eliminated by utilizing machinery already provided for by the Landrum-Griffin Act. This duplication of machinery and extravagant use of union funds by the monitors should be investigated by Congress to protect the rights given the rank and file members under the Landrum-Griffin Act," said Holland.

Congressman Roman Pucinski of Illinois, who voted for the Kennedy-Landrum-Griffin bill, then took the floor to accept the challenge made by Multer.

"I hope," said Pucinski, "that the appropriate committee of this House can consider this matter or that an appropriate resolution can be prepared which will in fact call for the Labor Department to exercise its rights and responsibilities under the 1959 Labor-Management Reporting and Disclosure Act (Kennedy-Landrum-Griffin) to bring some degree of order out of the utter chaos which confronts the Teamsters Union today under the present monitor system."

Congressman Joseph Karth of Minnesota said that he had communicated with many rank and file Teamster members, and that "they all agree they should have the right under the law that passed some seven months ago to settle their own problems and their own troubles and decide their own destiny by the free and democratic process of election at a national convention."

Karth added: " . . . . There is apparently little faith on the part of those people who are responsible for the implementation of this law, and that will include the courts, and as a result of this it increases my suspicion that the only reason for the Landrum-Griffin law was not to protect the 'rank-and-filer', but perhaps to hamstring him."

Congressman John Shelley of California, a Teamster member and former official, summed up the entire controvesy of whether or not the Teamsters should call a convention and hold a new election.

"Whether individual members of the House of Representatives voted for or against the Landrum-Griffin bill, it now is the law of the land," he explained.

"Once it became the law of the land, there was no longer any necessity for setting up a monitor provision to handle, differently than the law provides, the situation inside the International Brotherhood of Teamsters," he added.

Congressman Thomas O'Neill of Massachusetts said, "The monitor system and the Judge should be eliminated at this time and free and fair elections should be held under the direction of the National Labor Relations Board."

Congressman Frank Osmers of New Jersey, the only Republican to take part in the discussion, commented:

"To a layman like myself, the disputes among Judge Letts and individual monitors are reaching comic opera proportions. One of the monitors was found guilty of conflict of interest and is now trying to collect a very large fee for his work. A successor has been dismissed by Judge Letts. Another monitor has been forbidden to resign.

"The confidence of the public and of Teamster members that a square deal will result from Board of Monitors activity has largely disappeared."

Other Congressmen who joined in the discussion were Congressmen John McFall and B. F. Sisk, both of California.

SPECIAL REPORT THE UNION AND THE MONITORSHIP

O'Donoghue Admits

Hoped to Sway High Court

GODFREY P. SCHMIDT and Martin F. O'Donoghue, guiding the Monitor efforts to "get Hoffa," made some amazing admissions under oath in pre-hearing depositions given to Teamster lawyers Jacob Kossman and William E. Bufalino.

O'Donoghue admitted under oath that he had filed the Interim Report containing charges against President James R. Hoffa in hopes of influencing the Supreme Court at the time it was considering the IBT appeal in the Monitor case.

President Hoffa characterized O'Donoghue's action as unprecedented for a lawyer and unbefitting a judicial officer.

Schmidt admitted he favored right-to-work laws. And later, in a letter printed in the Wall Street Journal, Schmidt openly asked for what he has been seeking all along: "a genuine receivership, after the ouster of Hoffa."

O'Donoghue admitted under oath that he filed the Interim Report containing the so-called "Sun Valley" charges in September, 1959, because "I wanted the Supreme Court to know we were even petitioning for violations of the decree and for the removal of Mr. Hoffa before they passed on certiorari."

"Certiorari" means the union was asking the Supreme Court to place on its docket a hearing on an appeal which sought to uphold the IBT contention that the consent decree permitted a union convention at the call of the IBT General Executive Board.

O'Donoghue also admitted repeatedly that he had decided at the very outset of his term as so-called "impartial" chairman of the Board of Monitors that "Hoffa must go" before the Monitors' job was completed.

Schmidt in his sworn deposition declared that "I certainly am in favor of the right-to-work laws."

Kossman asked Schmidt if he was aware his views coincided "with those taken by the National Association of Manufacturers?"

Schmidt replied that "I would be proud to have their views shared by me or mine shared by them on this point."

Schmidt also admitted that he had "spoken many times" to Bobby Kennedy about the Monitor situation. Kennedy, former counsel of the union-busting McClellan Committee, tried for three years to destroy the IBT through phony attacks.

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Bill to Outlaw Monitorships Introduced

Bills were introduced in Congress late last month that would outlaw the court-appointed Teamster Board of Monitors, and prevent any court from interfering in the internal affairs of labor organizations.

Congressmen George Kasem of California and Thomas Lane of Massachusetts introduced the first bills. Many other Congressmen were readying similar legislative proposals to forbid the courts to involve themselves in labor union business.

The Kasem-Lane bills would add to the laws of the United States this section:

No court of the United States shall have jurisdiction to issue or continue in effect any judicial order appointing a receiver, trustee, master, monitor, or administrator, whether so denominated or otherwise, to manage or administer, or supervise the management or administration, of the affairs of any labor organization."

It is provided, however, that receivers may be appointed to protect funds of a labor organization, pending a new election of officers as required by the Kennedy-Landrum-Griffin act.

These bills are the outgrowth of the growing disgust with the performance of the court-appointed monitors by rank and file Teamster members, members of Congress and the general public.

The monitors have steadfastly refused to allow the Teamsters Union to hold a new convention to elect officers. This is contrary to the Kennedy-Landrum-Griffin act, which specifically calls for democratic elections.

LABOR BILL BACKER LOSES

John A. Lafore, Jr., Republican Congressman from Pennsylvania who played a key role in the passage of the Kennedy-Landrum-Griffin Bill last year, was defeated late last month in a primary election.

Lafore, a member of the House Labor Committee who voted wrong on Kennedy-Landrum-Griffin all the way down the line, was defeated in the primary by Republican Richard S. Schweitzer, by a vote of 31,000 to 26,000. Lafore previously had won elections by margins of no less than 62 per cent of the total votes.

Lafore was thus repudiated by voters in his own party in Pennsylvania's 13th District.

The monitors have already cost the Teamsters Union over $1,000,000, and the total could reach $2,000,000, if the monitors are allowed to continue throughout the year.

Meantime, a New York Congressman, Paul A. Fino, wrote to Secretary of Labor James P. Mitchell urging a "free and fair election" in the Teamsters Union. A similar letter to Mitchell was sent by Missouri Congresswoman Leonor Sullivan.

Fino's letter stated that "when the Landrum-Griffin bill was debated, the proponents argued that it would guarantee the rank and file members of all unions a free and fair election. In view of the fact that this law sets up adequate machinery to deal with this particular problem, I see no reason why the monitors should not be eliminated nor why a free and fair election should not be held at this time.

"If this law has any meaning, then union members, whether from the Teamsters or any other union, are entitled to its protection as well as the freedom guaranteed by its bill of rights.

"I would appreciate it if you will give this matter your immediate and serious consideration.

Senators Defend Members' Right to Vote In Convention

Congressional Record
of America PROCEEDINGS AND DEBATES OF THE 86TH CONGRESS, SECOND SESSION

Vol. 106 WASHINGTON, WEDNESDAY, APRIL 13, 1960 No. 68

THE Teamsters Union's problems with Federal Judge Letts and the court-appointed monitors were the subject of an hour long bi-partisan discussion on the Senate floor late last month. As in the earlier discussion on the floor of the House of Representatives, one question kept coming up without being satisfactorily answered.

The question was this: If the Kennedy-Landrum-Griffin act was to protect the rights of rank and file members of organized labor, why can't the Teamsters Union hold a convention and conduct an election under the provisions of that law?

Senators Homer Capehart of Indiana and Styles Bridges of New Hampshire led the discussion for the Republican Senators, and Senators John Carroll of Colorado and Wayne Morse of Oregon led the discussion for the Democratic Senators.

Capehart declared that the Kennedy-Landrum-Griffin bill was passed "to make certain that the rank and file of union members had a right to be heard and had a right to elect their own officials in free and open elections."

He said that he has been told by rank and file Teamster members "that as a result of the monitoring system in effect at the present time, these people are denied an election."

The Indiana Senator proposed that "the Committee on Labor and Public Welfare or the Committee on Judiciary, or both, study the problem; that they investigate it and hold some hearings."

Senator Bridges, the dean of Republican Senators, congratulated Capehart for bringing the Teamsters situation with the monitors to the attention of the Senate.

"I am one of the many Senators who have been receiving communications relative to this situation. They are disturbing. It is difficult to know how to handle the matter.

". . . We hoped that the monitors appointed by the Federal court would help to clear up the situation and remove the difficulties which were besetting the Teamsters Union," Bridges continued. "Judging from the cost which has been incurred, it appears that to date very little has been accomplished."

Referring to the Kennedy-Landrum-Griffin law, the New Hampshire Senator added, "Now we are being asked, if this is the law of the land, 'Why are its purposes not being carried out?' This is a good question."

Senator Morse and Senator Carroll made it very clear that the discussion on the Senate floor was not an attempt to bring pressure to bear on Judge Letts' court.

Carroll added, however, that "by the same token, the courts should not, under the broad power of equity, be interfering in another sense with 1,600,000 members who have a right to express their vote under the democratic process."

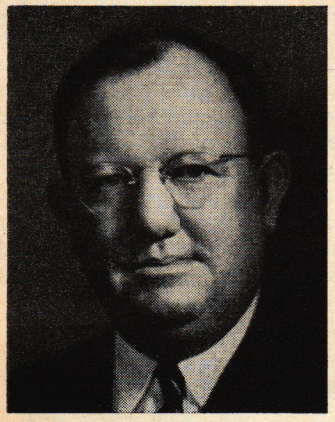
Morse stated, "I do not want the Record to show that we can possibly be in disagreement as to whether the union should have the right to have an election if that is what the rank and file members want." Information available to him, said Morse, "seems to indicate that local after local of that union wants an election."

Capehart discussed with Morse and Carroll how much longer the monitorship over the Teamsters would last. He predicted that unless something was done, "It might go on five or ten or fifteen years before an election is held."

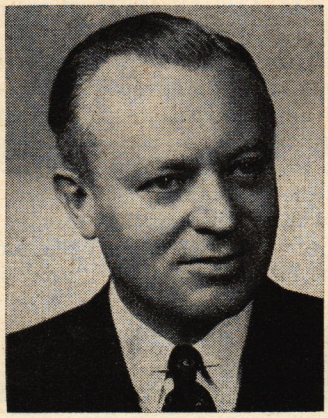
Carroll disagreed, saying that "somewhere along the line within a reasonable time the court will make a determination."

Capehart replied, "My point is that there is nothing in the law that would prevent them from doing this for five or ten or fifteen years unless, of course, someone took them to court and the court decided to dissolve the monitorship."

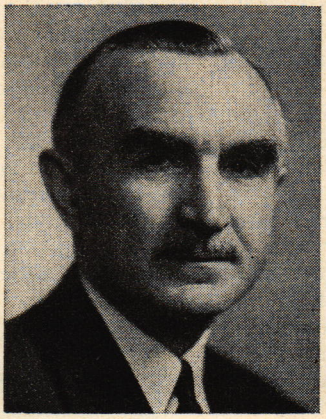
Morse commented: "They have already done it for two years. I think on the basis of what we know about the case so far, that is too long."



Capehart



Bridges



Morse

Carroll

Union-Monitorship Case Reviewed

Reasons for Convention Listed

A THOROUGH review of the history of the Monitor case was given in a document filed in Court last month, seeking permission to hold a new convention and a free election of International Union officers.

The motion, listing the reasons why a convention should be permitted, offered to permit outside supervision of the election of convention delegates, as well as of the convention itself.

The document stated:

The defendants, by their undersigned attorneys, hereby move the Court for an order directing the immediate calling of a convention of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, for the election of officers for a five-year term, the said convention to be held as soon as is permitted by the notice provisions of the International constitution.

As grounds for their motion, the defendants state, all as more fully appears from their Points and Authorities filed herewith, that (1) it is desirable that there be early transition from Court supervision of the International to normal organizational management; (2) the ever-increasing cost of the monitorship is a burdensome charge against the funds of the International which charge ought to be eliminated without unnecessary delay; (3) the monitorship, having ceased to function as the advisory institution intended by the consent decree to render a valuable service to the International and its membership and having adopted an adversary and prosecutional attitude which creates more difficulties than it solves, has outlived its usefulness; (4) performance under the consent decree of January 31, 1958, has advanced to a point which gives reasonable assurance of new elections in accord with membership rights under the International constitution; (5) further assurance in this regard is provided by the Labor-Management Reporting and Disclosure Act of 1959, which became effective on September 14, 1959; (6) the sanctions and remedies provided by the said Act guarantee also that the obligations of the defendants embodied in the consent decree will continue to be performed in the future; and (7) any remaining doubt as to the efficacy of an early convention as an expression of the free preference of the membership of the International will be obviated by such supervision of the convention and the antecedent elections of delegates as to the Court shall seem necessary and proper, in which connection the defendants are willing that the election of local union delegates to the convention be supervised by such independent public or private agencies as the Court may select.

IN SUPPORT OF MOTION

This action was commenced in September, 1957, because of an alleged "rigging" of the 1957 convention of the International, as a result of which alleged rigging the adoption of the new International constitution and the election of International officers at such convention were claimed to be in violation of the 1952 International constitution and the rights thereunder of the membership represented by the plaintiffs. The complaint further alleged various breaches of fiduciary duties and responsibilities by some of the named defendants and by other officers of the International and its affiliates.

The plaintiffs prayed that a temporary receivership be established for the limited purpose of assuring and supervising elections and a convention

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that would be conducted in strict compliance with the International constitution.

The litigation terminated in a compromise embodied in a consent decree adopted by the court on January 31, 1958, the purport and intent of which compromise were to assure a new convention at the earliest possible time in accordance with the terms and conditions set forth in the said consent decree. Specifically, Section 8 of the consent decree provided:

> *"A new convention and election of officers shall be held at any time after the expiration of one year from the date of this order when the General Executive Board by majority vote shall resolve to call such convention and hold such election."*

Thus, it was contemplated that the new convention could have been held more than a year ago.

3. This Court, however, having found that conditions for a new convention were not yet ripe after a year of operation under the consent decree, ordered, on February 9, 1959, that Section 8 of the decree be modified to make the time for the new convention

> *"subject to recommendation by the Board of Monitors to the General Executive Board of the International Brotherhood, with the exact time of holding the convention being subject to the final approval of the Court."*

So much of this modification as subjected the date of the new convention to control by the Monitors was held by the Court of Appeals to be error. The principle that the new convention date controlled by the District Court itself was, however, upheld. The basis upon which this Court is to exercise that control is sufficiently indicated in the opinion of the Court of Appeals. That Court said:

> *"We realize the desirability of early transition from court supervision to normal organizational management, but the District Court is not required by law, or by the consent decree, to step aside until conditions advance to a point which gives reasonable assurance of new elections in accord with membership rights under the Teamsters' constitution. If defendants' obligations are not yet fulfilled we think the time for doing so may be enlarged."*

In short, this Court is to extricate itself from the somewhat unaccustomed role of labor union supervision and is to restore to the International the full management of its own affairs as soon as there is a proper atmosphere for the transition.

In determining the existence *vel non* of such an atmosphere, the Court is to consider whether operation under the Monitorship has progressed to a point giving "reasonable assurance" that the membership's preferences will be reflected in the transition to independence. In making that determination, moreover, the Court must give due regard to the effect of the Labor-Management Reporting and Disclosure Act of 1959, adopted after entry of the consent decree herein. The effect of the Act is hereinafter discussed. The mere fact that certain Monitorial recommendations have not received full compliance would not necessarily mean that the proper atmosphere for the transition does not exist, because some of the recommendations may have no significant relation to the fulfilment of the defendants' obligation to produce an atmosphere in which a transition to independence can be made with "reasonable assurance of new elections in accord with membership rights".

What the Court of Appeals has required is not that the defendants shall have crossed every "t" and dotted every "i" that the Monitors may have seen fit to demand of them, but only that they present an overall picture of compliance with their obligations to protect membership rights. Indeed, in spelling out the areas in which this court may direct action by the defendants, the Court of Appeals repeatedly limits such direction to cases where "the defendants fail to comply *in any significant respect* with their obligations under the consent decree."

Cites 'substantial compliance'

5. The Monitorship established under the consent decree has now been in existence for more than two years—a period more than double that originally contemplated by the parties and the Court. That there may still be room for improvement in some of the International's policies and practices is no justification for further prolongation of the Monitorship. It was never contemplated that the Monitorship would produce perfection. Indeed, no organization as large and complex as the International can ever be expected to reach perfection.

Certainly nothing like perfection could possibly be attained in a period of one year. Therefore, in agreeing to the provision of Section 8 of the consent decree that the General Executive Board of the International could terminate the monitorship after one year by holding a new convention, the parties must necessarily have contemplated that some minor complaints would not be considered by the Monitor, but would be left for future correction by the normal operation of a democratically constituted International.

What the Monitorship was designed to accomplish was, as the Court of Appeals said, "reasonable assurance" that new elections and a new convention could be conducted in a manner according with membership rights under the constitution. As soon as there is such "reasonable assurance", the International and its membership are entitled to a termination of the Monitorship and a restoration of autonomy without delay. That time, we submit, has arrived.

6. The very substantial degree of compliance by the defendants with the various orders of the Court under the consent decree is well-known to the Court and need not here be set forth in detail. That some of the Court's orders may not have been fully executed (in some measure, because of foot-dragging by the Monitors, as will hereinafter appear) does not detract from the fact that the basic obligation under the decree—that of assuring free and democratic

elections leading to a fair convention —has been carried out. Witness, for example, the promulgation by the General President of proposed uniform local union election rules. Small deviations from perfection in peripheral matters should not be seized upon as a justification for continuing the Monitorship to a point where it deserves the interest of the membership.

7. Since the appointment of the present Chairman of the Board of Monitors, and more particularly since the denial by the Supreme Court of the defendants' petition for certiorari, the majority of the Board of Monitors has adopted a position adversary and hostile to the defendants, abandoning the advisory role assigned to the Board under the consent decree, with the result that the Monitorship has now become merely a continuation of the litigation which the decree was to have settled.

The Board has repeatedly neglected and refused to consult with the officers of the International toward the solution of problems. It has repeatedly disregarded or rejected invitations to attend meetings of the General Executive Board of the International. The Court will recall one occasion when it found it necessary to instruct the Monitors to meet with the General Executive Board. What the Monitors are presently devoting their time and energies to are the various alleged acts of misconduct by some of the defendants, which acts were charged in the complaint and which were disposed of by the compromise embodied in the consent decree.

They are, for example, busily gathering evidence to support a charge against the General President of the International which the plaintiffs had alleged in their complaint and, on April 28, 1960, they expect to prosecute him on that charge before this Court, nothwithstanding that the plaintiffs gave up the charge by consenting to the decree. This adversary, hostile and prosecutory position violates the spirit of the decree, perverts its purpose, and frustrates the attainment of the ultimate objective of the suit and the decree to assure a free, fair and democratic election of International officers. The bias and the adversary attitude of the Chairman of the Board of Monitors appear from the affidavit of Monitor Maher.

'Monitors' foot-dragging'

8. The effect of the Monitors' foot-dragging is well exemplified by their record regarding the formulation of model local union bylaws. The drafting of such bylaws was a duty placed on the Board of Monitors by Section 4 of the consent decree on January 31, 1958. To date, there has not yet been a formal submission by the Board of Monitors to the International of a draft of proposed bylaws. The Chairman of the Board of Monitors did, however, almost two years after the Board's duty arose, submit a draft which had not been formally adopted by the Board. To get the Monitors to submit their proposal and to discuss it with the General Executive Board of the International took very considerable pressure on the part of the defendants and even the intercession of this Court.

As a result of this pressure, it now appears that a model code of local upon bylaws will soon be recommended for adoption by the local unions. The chairman of the Board of Monitors, however, with an apparent abhorrence of accomplishment, has recently announced that the present unofficially proposed provisions for insertion in the bylaws are not final, that he reserves the right to propose others, and that he anticipates that it may take another year or a year and a half for the Board of Monitors to complete its duty under Section 4 of the decree.

The right of the International and its membership to a restoration of self-government cannot in justice and equity be thus frustrated at the whim of the chairman of the Board of Monitors.

9. The Monitors' performance under Section 5 of the consent decree is another example of foot-dragging which should not be allowed to result, even if so designed, in undue prolongation of the Monitorship. That section gives the Monitors a consultative role in the duty imposed on the General Executive Board to "review and where needed establish accounting and financial methods, procedures and controls affecting all funds and properties held, received and disbursed by or on behalf of the International . . . and its subordinate bodies." To perform that role the Monitors obtained the consent of the International to hire an accounting firm at the International's expense. That firm, although it has acknowledged the excellence of the International's present system of record-keeping with the exception only that records of the good-standing status of all members of local unions are not kept at the International office, has yet to recommend any revised bookkeeping system.

The accounting firm has, however, billed the International to date for $18,721 for consultation fees alone. To remedy the one alleged defect of the International's record-keeping system (a course not yet formally recommended by the Monitors) would involve an initial expenditure in excess of $330,000 and would increase record-keeping costs by over $142,000 per year.

10. A large component of the plaintiffs' complaint that the 1957 convention did not fairly reflect membership preferences was the fact that 109 of the International's local unions were in trusteeship. The consent decree provided, therefore, in Section 7, for elimination of trusteeship "with all deliberate speed consistent with the best interests of the membership of such locals."

The International, in compliance with this provision, immediately embarked upon a vigorous campaign to eliminate trusteeships and restore local unions to autonomy whereever possible. It had already restored 41 locals to autonomy and was in the process of restoring 21 more to autonomy when the Board of Monitors, on June 17, 1958, issued an "Order of Recommendation" that the campaign of restoration be suspended until the Monitor could consider what rules should apply to election at trusteed locals.

There followed more than a year of discussion between the Monitors and the International concerning proposed election rules for autonomous as well as trusteed locals, the greater part of this period being consumed by long silences on the part of the Monitors. The log-jam was not broken until October 13, 1959, when the General President promulgated a set of temporary local union election rules, recommending them for adoption by all autonomous locals and announcing that he would use them in all trusteed locals. The Interna-

tional thereafter acceded to the Monitors' demand that the release of trusteed locals remain suspended until twelve "pilot" elections could be held under supervision of an outside agency.

The International, desiring the speediest possible elimination of trusteeships, cooperated fully with the Honest Ballot Association, which had been selected by the Monitors to supervise six of the pilot elections, and a *modus operandi* was agreed upon for the conduct of the elections. There was, therefore, every prospect that the ultimate release of all of the trusteed locals could be accomplished very quickly. Thereafter, however, the American Arbitration Association, the agency selected by the Monitors to supervise the other six pilot elections, proposed a *modus operandi* not only *far more expensive than that proposed* by the Honest Ballot Association, but also extremely burdensome and rationally inapplicable to the circumstances of the six locals whose elections were to be supervised.

The Monitors' apparent disenchantment with the Honest Ballot Association and their stubborn espousal of the procedures suggested by the American Arbitration Association have had the effect, thus far, of delaying the completion of the International's program of restoring all trusteed locals to autonomy. Some of the trusteed locals have been in trusteeship for more than 18 months, contrary to the spirit and purpose of Title III of the Labor-Management Reporting and Disclosure Act of 1959, hereinafter more fully discussed.

It is hoped that, despite difficulties injected by the Monitors, the program of release of trusteeships can shortly be brought to substantial completion. To the extent that it has not been completed, however, there is no reason, on that account, to postpone the holding of a new convention. Since, under Section 303(a) of the new Act, convention delegates from a trusteed local are required to be elected by secret ballot, there is as much assurance of democratic control as there would be if all the locals were autonomous. The condition for a new convention imposed by the Court of Appeals has, therefore, been satisfied.

11. In the fall of 1959 almost half of the local unions constituting the International held their elections of officers. In some cases, disputes arose as to eligibility, which disputes were to be expected in view of the fact that a new eligibility standard was being used at the instance of the Board of Monitors. These disputes have been decided by this Court to the satisfaction of the Board of Monitors. As for complaints to the Monitors about the manner in which these elections were conducted, they have rejected those they have thus far acted upon.

Television, Radio and the press gave full account of 1957 Convention

There can be no stronger evidence, we submit, that there is now reasonable assurance that delegates to a new convention can be elected in full accord with membership rights under the constitution.

'Long monitorship not justified'

12. During the more than two years since the entry of the consent decree and despite the increasingly hostile and adversary attitude of the majority of the Board of Monitors, the officers of the International have not only produced an atmosphere satisfying the Court of Appeals' requirement of "reasonable assurance of new elections in accord with membership rights under the Teamsters' constitution," but have discharged their obligations under the decree and the International constitution in the handling of receipts and disbursements each in excess of $24,000,000; they have faithfully managed and conserved over $39,000,000 of assets; the membership of the International has increased by over 28,000 members; the International has paid out over $4,400,000 in strike benefits; it has expended more than $3,597,000 in organizing campaigns.

International officers have assisted the various Area Conferences and local unions in negotiating thousands of contracts covering collective bargaining units ranging from two or three employees to 100,000 employees; the International's investments have been handled in strict accord with fiduciary standards; and the General President and General Secretary-Treasurer have worked efficiently and diligently, often more than twelve hours a day and for six or seven days a week, in the discharge of their duties to the International, its subordinate bodies and its membership.

13. The number of complaints received by the Board of Monitors alleging grievances claimed to have occurred since the entry of the consent decree has probably averaged no higher than three or four per week. The great majority of these complaints are acknowledged by the Monitors to be either without merit or beyond the jurisdiction of the Monitors under the decree.

The continuation of the Monitorship for the purpose of processing an ever diminishing trickle of ever less meritorious complaints cannot be defended on any rational basis and cannot justify the drain on union funds which the

Monitorship entails. The direct expense of this litigation to the International has already been more than $690,000, without counting the $210,000 of fees allowed for plaintiffs' attorneys and now on appeal. The cost of the Monitorship has accounted for the fact that, for the roughly two years of the Monitorship, the International's expenses have exceeded its income by over $84,000.

The monthly cost to the International entailed by the Monitorship has now risen to about $35,000. The Board of Monitors which consisted originally only of its three members, has grown and grown, until it now employs a full-time staff of five lawyers, six secretaries and a staff analyst, all paid by the International, as well as retaining the services of a law firm whose bill, for its first eight weeks of work, is over $18,000.

This Court will, of course, follow Mr. Justice Frankfurter's admonition to be thrifty in the expenditure of the International's funds. The most significant consideration in such thrift, we submit, is that the machinery upon which the funds are expended not be kept in operation beyond the point of economic utility. That point has long since passed.

14. In considering the need for and the utility of the machinery established under the consent decree, the Court must be mindful that, subsequent to the entry of the decree, Congress adopted and the President signed the Labor-Management Reporting and Disclosure Act of 1959, which became effective on September 14, 1959.

In the course of the debates and arguments in Congress and before its various committees, it was repeatedly stated and acknowledged that the principal purpose of the legislation was to correct and to prohibit the repetition of those very conditions and circumstances alleged in the complaint in the instant litigation. Accordingly, the Act deals specifically with the very matters which were the subject of the suit herein and which are now covered by the consent decree, to wit:

(a) The right to vote periodically for elective officers, the right to honest advertised elections, the right to fair and uniform qualifications to stand for office, and freedom to express views at meetings (Section 3, Consent Decree) are specifically covered by Titles I, III and IV, as well as Sections 609 and 610 of the Act, which secures these rights through penal sanctions and civil injunctive

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proceedings either at the instance of aggrieved members or upon application of the Secretary of Labor.

(b) The adoption of local union bylaws (Section 4, Consent Decree) is required by Sections 101 (a)(1) and 201(a) of the Act.

(c) The establishment of accounting and financial methods and procedures and the imposition of fiduciary standards (Section 5 of the Consent Decree) are covered by Titles II and V of the Act.

(d) The provision against conflict of interest (Section 6, Consent Decree) is covered by Section 202 (a) and Title V of the Act.

(e) The provisions for restoration of autonomy to local unions under trusteeship (Section 7, Consent Decree) are covered by Title III of the Act.

(f) The requirements for a full and fair convention of the International Union (Section 9, Consent Decree) are covered by Titles I and IV of the Act.

(g) The prohibition against reprisals (Section 13, Consent Decree) is covered by Sections 101 (a)(5), 102, 401(e) and 610 of the Act.

Under the Act, the state courts, the federal courts, the Department of Labor and the Department of Justice are empowered, upon individual or class complaints, to seek and provide remedies, both criminal and civil in nature, against any of the wrongful conduct covered by the consent decree. Accordingly, the use of the new procedures available under the law will eliminate all of the costs and expenses of the monitorship, while at the same time achieving all of the objectives and purposes of the monitorship, to wit: democracy in union affairs, full reporting and disclosure, adherence to fiduciary standards and democratic elections.

Indeed, Mr. Godfrey Schmidt has observed to this Court that "had the Landrum-Griffin Bill been a law at the time we instituted this case, we might very well have adopted other procedures under such a bill." It was because of the absence of such statutory procedures, he added, that the plaintiffs "were forced to have recourse to a court of equity." Transcript of hearing of October 16, 1959, p. 241.

Congress' intentions clear

15. By the enactment of the new law, Congress clearly expressed its desire and intention that matters such as are involved in this proceeding be handled in the manner set forth in such law. Congress also reaffirmed and gave protection to individual rights of members to participate in and to conduct their own affairs in accordance with their own constitution and bylaws and in the exercise of the democratic rights assured by Titles I and IV of the Act. Further prolongation of the Monitorship would deprive the members of this International of those rights.

16. For the remedies of Title IV of the Act, relating to elections, to be available to the members of this International, it is necessary that there be changes in the International constitution, e.g., as to terms of office of local union officers, as to election of unopposed candidates, and as to election of officers of intermediate affiliated bodies, etc. Under Section 404(2), these changes are to be made, within a year of the date of enactment of the statute, by action of a convention. If a convention is not held within a year, the General Executive Board is empowered to make the changes.

The only impediment to holding of a convention by September 14, 1960, can be this Court's refusal to permit it. In view both of the purpose of the complaint which started this action and of the policy of the new Act that the membership of the International have the strongest possible voice in the affairs of their organization, we submit that there is

every reason for this Court not to interpose any impediment to an early convention.

17. Section 403 of the new Act provides:

> *"No labor organization shall be required by law to conduct elections of officers . . . in a different form or manner than is required by its own constitution or bylaws, except as otherwise provided by this title. Existing rights and remedies to enforce the constitution and bylaws of a labor organization with respect to elections prior to the conduct thereof shall not be affected by the provisions of this title. The remedy provided by this title for challenging an election already conducted shall be exclusive."*

Thus the statute, having provided for certain democratic safeguards for future elections and having required that such safeguards be included in the International constitution, forbids the imposition of rules or restrictions other than those so stated in the constitution.

For this or any other Court to require elections to be conducted in any other form or manner would violate the clearly-expressed statutory policy. So far as concerns elections already held, the statutory challenge procedure is made exclusive. It need not here be decided whether this has the effect of terminating the jurisdiction of this Court over this lawsuit brought to challenge the 1957 elections. Cf. *Kline* v. *Burke Construction Co.*, 260 U.S. 226, 234 (1922).

It is enough to observe that proper effectuation of the policy expressed in the statute would require this Court to conclude that such part, if any, of the controversy remaining for justification has been rendered moot.

18. If the Court requires further assurance that the earliest possible convention of the International will be a true reflection of the desires of the membership and will be conducted in full accord with the constitutional rights of the membership, the defendants hereby state to the Court their willingness and agreement that all local union elections of delegates to the convention be conducted by secret ballot under the supervision of such independent public or private agencies as the Court may select.

CONCLUSION

It is submitted, in the light of the foregoing, that, as a matter of law and equity, a new convention of the International should immediately be authorized.

SPECIAL REPORT THE UNION AND THE MONITORSHIP

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Former Monitor Says Press Comment Varies from Facts

To the Editor of the New York Times:

Your editorial of March 30 on "Mr. Hoffa and the Monitors" contains statements at substantial variance with the facts of record. For example, your editorial asserts:

"From the very start Mr. Hoffa has used every conceivable device of evasion, stalling and litigation to avoid carrying out the recommendations for reform that have been made by the majority of the monitors' board—the chairman and the representative of the insurgent teamsters, with Mr. Hoffa's nominee constantly objecting."

I have some knowledge of these matters, having served for more than a year as a monitor, nominated by the executive board of the international union, and appointed by Judge F. Dickinson Letts.

The distinguished jurist who served as the first chairman of the Board of Monitors, retired Federal Judge Nathan Cayton, reported to the court: "* * * it is fair to say that we [the monitor board] have had the enlightened cooperation of the international union."

While there was not full agreement among the monitors during Judge Cayton's tenure, the unanimous "Initial Report of Board of Monitors" (on file in the District Court and signed by all of the monitors) discloses that many complaints "have been brought to a satisfactory conclusion." Moreover, the original monitor board unanimously found the constitution and procedures of the Teamsters Union under the present administration to have been greatly improved over those prevailing under the prior administration.

A section of the report headed "Union Financial Methods and Controls" reported: "We are generally impressed with the careful and businesslike manner in which these functions (accounting and financial) are performed in the International office." The report further states: "The present union administration has embarked on a program of restoration of trusteed locals to local autonomy." Of particular interest to your New York readers the monitors unanimously reported: "After an investigation and report by a special committee appointed by the general president [Mr. Hoffa] in the matter of Local Unions 258 * * * etc. * * * the charters of the so-called 'paper-locals' in New York have been revoked."

Improvements in intra-union trial procedure were also noted. This is hardly "every conceivable device of evasion, stalling and litigation * * *" of which you complain.

Nor are you accurate in characterizing the union-nominated monitor as "constantly objecting." Of the fifty-four formal written recommendations issued prior to my resignation as monitor there was unanimity as to the great majority. Where dissents were filed they related to majority determinations made without hearing or affording accused union members an opportunity to confront and cross-examine witnesses.

I remain of the view expressed in a series of dissents that any union member (including Mr. Hoffa) should "be afforded full due process, including specific charges, hearing, and right to cross-examine." Or as I stated in dissent to Supplemental Order 16: "We [the monitors] have no power to improvise procedures whereby special prosecution is initiated. We should require scrupulous adherence to the union constitution * * *."

I have no first-hand information as to development within the monitor board during the last eleven months. Yet I would doubt your editorial assertion that "Now * * * have come desertions from the cause of reform that threaten to undermine the very operations of the monitors themselves." If, as your news columns of March 30 indicate, it is presently sought to give first attention to removing Mr. Hoffa rather than effectuating the purposes and requirements of the consent decree, it seems to me that "the cause of reform" will suffer —not from "desertions" of those who brought the action, but from abandonment of basic concepts of due process and civil liberty.

L. N. D. WELLS, JR.

Dallas, Tex., March 31, 1960.

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MONITORS vs. the TEAMSTERS . .

by William Goffen

LAST week's ousting of Godrey P. Schmidt as attorney for the dissident Teamsters, and the scheduled trial next month of James Hoffa on charges of misusing his union's funds, focus attention on what Justice Felix Frankfurter has called "a most unusual manifestation of the equity powers" of a court—the monitorship which has ruled the union since early 1958.

Shortly after the union election of 1957, thirteen rank-and-file dissidents, then represented by Schmidt, instituted legal action to set the election aside as "rigged." After twenty-two days of trial, the plaintiffs rested, whereupon the defendants (the union's elected officials), agreed to a settlement without ever having taken the stand in their own defense. The terms were expressed in a consent decree entered on January 31, 1958, by Judge F. Dickinson Letts of the U. S. District Court for the District of Columbia, who had presided over the trial.

The settlement provided for a board of three monitors to serve until a new convention for the election of officers. One of the monitors appointed by Judge Letts was Schmidt. The officials who had been elected at the 1957 convention were to serve provisionally until the new election, which the General Executive Board of the Teamsters was authorized to call after one year, and the balloting was to be held with such guarantees of the democratic process as the secret ballot and supervision by an outside agency like the Honest Ballot Association.

Had the defendants, instead of agreeing to a settlement, gone through with the trial and then lost, the victorious plaintiffs would have achieved no more than the prompt calling of a new convention and an election under court supervision. Since Hoffa, who had been chosen president at the 1957 convention by overwhelming vote, seemed certain to win again in a new election conducted under any conditions, it is difficult to understand why defense counsel consented to the agreement calling for a monitorship.

As authorized by the consent decree, the Teamsters' General Executive Board issued a call for a new convention and election for March, 1959. At this point Schmidt, who had signed the consent decree as plaintiffs' counsel, nevertheless petitioned Judge Letts to postpone the balloting. The Judge obliged by issuing a modification order postponing the holding of any new election until such time as recommended by the Board of Monitors.

Schmidt's opposition to a new ballot (which under the terms of the agreement would have dissolved the monitorship and terminated the lawsuit) is understandable for reasons other than his professed concern for the welfare of the rank-and-file Teamsters he represented. Since February, 1958, the Board of Monitors has taken more than $350,000 in fees out of the dues of the rank-and-file membership. In addition, Schmidt and his co-counsel have so far claimed sums amounting to $210,000, plus expenditures exceeding $17,000, for services as plaintiffs' attorneys.

Judge Letts' modification order, aside from postponing the election to which the Teamsters' membership was entitled, granted to the monitors unlimited authority to investigate the international union and its locals, and even to institute disciplinary proceedings leading to expulsion of its duly elected officials. The court avowed that the plaintiffs had proved that the 1957 convention was "rigged" even though the case had been voluntarily settled without a single word of testimony on behalf of the defendants.

Hoffa and his fellow union officials appealed the modification order in vain; the Court of Appeals sustained the power to prohibit an election, although at the discretion of Judge Letts rather than of the monitors. If this determination is a sound precedent, it would appear that any litigant is ill-advised to settle his lawsuit, but should always fight his case until final judgment.

While generally upholding Judge Letts, the Court of Appeals did find that Schmidt had been guilty of conflict of interest, in that while serving as a monitor, he further profited by representing numerous employers in

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their negotiations with the Teamsters. Forced to resign as monitor, he was permitted by Judge Letts to appoint Lawrence T. Smith, a member of his own law firm, as his successor. And until last week, he continued as plaintiffs' counsel. [Judge Letts has now also dismissed Smith, and the original three-man monitorship has been reduced to one.—ED.]

Despite the extraordinary national and legal importance of a case involving denial of due process through judicial deprivation of the right of 1,600,000 union members to a free election, the United States Supreme Court has refused review. Attorneys for the plaintiffs have argued persistently that a democratic election was impossible without a prior, undefined "housecleaning" of the union. This aspect has been given widespread coverage by the press. Yet, according to the Election Institute (specialists in the conduct of honest labor elections), and the Honest Ballot Association, a free and democratic election could have been arranged for the Teamsters in three months, let alone the long-expired one-year minimum set by the consent decree.

The refusal of the Supreme Court to act has apparently been construed by Judge Letts and the monitors as a warrant for wide-ranging intervention in the internal affairs of the union. Judge Letts has granted subpoena power to the monitors, despite the absence of statutory authority for its exercise. The monitors, for their part, are presently engaged in an attempt to oust Hoffa as president and as a member of the Teamsters. Their chief ground—it is the issue involved in the Hoffa trial scheduled for next month—is that Hoffa was guilty of a conflict of interest in connection with a project in Sun Valley, Florida, for the construction of homes for aged Teamster members. At one point in the course of complicated realty and bank negotiations, Hoffa had an option to purchase stock in the firm which was to construct the homes.

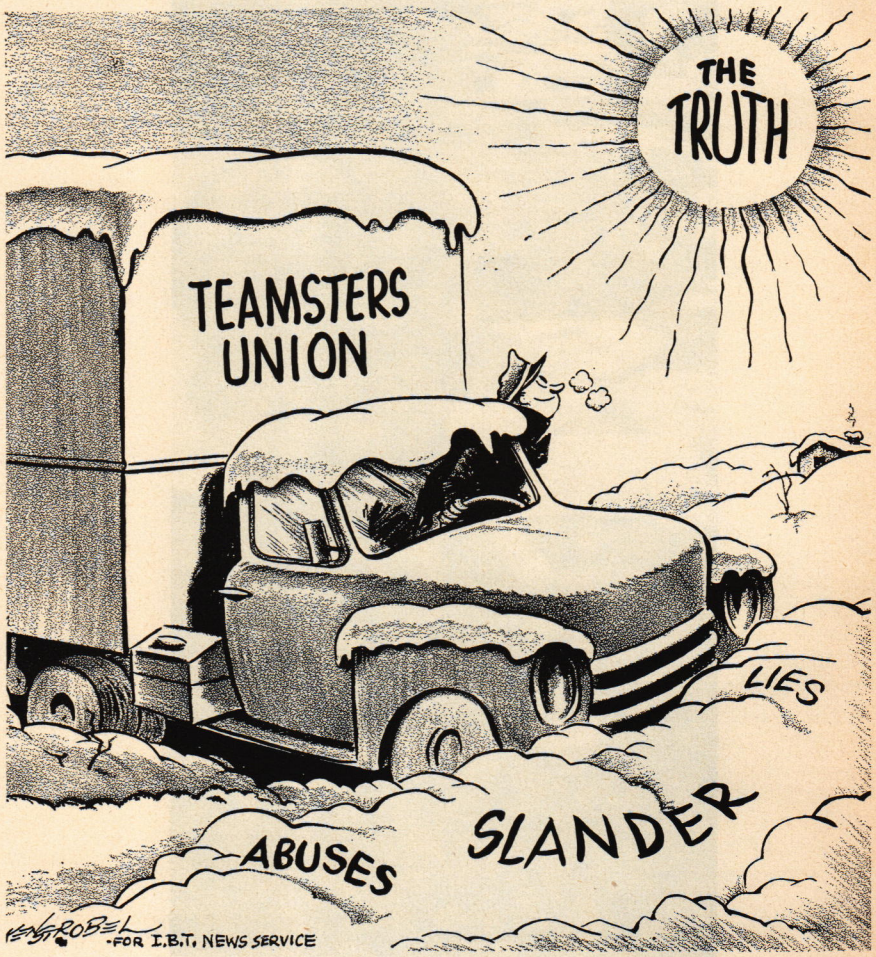
It is ironic that Hoffa and Schmidt, who for so long have been battling each other in and out of courts, should both stand accused of conflicts of interest. The trial, of course, will fix Hoffa's legal responsibility in the Sun Valley affair. But it seems reasonable to draw a distinction, on moral grounds at least, between the acts charged to Hoffa and those of Schmidt's which resulted in the latter's dismissal as a monitor. Whatever profit Hoffa may personally have stood to gain in the Sun Valley project, his union would have gained an old people's home—certainly a worthy plan. But Schmidt's activities, while of profit to himself and perhaps to the employers in whose behalf he negotiated with the union, can in no way be construed as having profited the Teamsters, whose membership, as a monitor, he was supposed to protect.

The Teamsters' membership has expressed its opposition to the monitorship through the following petition to Judge Letts:

> We, the undersigned members of the International Brotherhood of Teamsters, want an election of officers of the I.B.T. now. We do not want the monitorship which is eroding the foundations of our union by maligning our membership, generating an atmosphere of fear, weakening our organizational functions and depleting our treasury. There can be no question of a Hoffa victory if a new election were to be held. The union, as a matter of fact, has "never had it so good." While other unions—notably the Auto Workers, Steelworkers and Machinists —have been losing membership, the Teamsters gained more than 20,000 new members last year.

The truth is that to deprive union members of the right to vote for their international officers is no more defensible, legally, than to deprive stockholders of their right to elect the officers of U. S. Steel.

It would seem that if the Teamsters' monitors sincerely believed that a union "housecleaning" was desirable, they would willingly withdraw their opposition to an election, the democratic way for "housecleaning" of any group. Their continued opposition can be regarded as consistent with a general tendency, in recent years, to erode labor's rights.



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Monitor

Teamster Monitor Daniel B. Maher, who resigned from the Board last month, gave his views on the operations of the Monitorship in a sworn affidavit filed in U. S. District Court.

Monitor Maher's report stated that:

DANIEL B. MAHER, being first duly sworn on oath, according to law, deposes and says as follows:

1. That he is a duly qualified and presently serving member of the Board of Monitors established by the Consent Decree entered in this Court in the case of *John Cunningham et al.*, v. Civil Action No. 2361-57.

2. That he has been in basic disagreement with a majority of the Board as to the scope of its authority under the Consent Decree; with respect to the systematic exclusion of this Monitor from meaningful full participation on the Board; and for the further reason that the Board has been converted from a neutral body, interposed between two contending litigants, into an accusatory body basing its actions on *ex parte* representations.

3. The majority of the Board believes it has wide ranging investigatory powers; including the authority to initiate investigations, to require members of the union to appear before it for inquisition, and to entertain complaints without requiring the aggrieved party to exhaust his remedies within the union's Constitution.

4. Under the Chairmanship of the Honorable Nathan Cayton, the prior Board adopted Rules of Procedure and promulgated them to the Teamsters in the March, 1958, issue of the union magazine. That Board considered the 1957 Constitution was in effect, and advised the members that "complaints within the sphere of our authority should first be made to the appropriate union official or subordinate body and thence to the General Executive Board." (See Exhibit 4, p. 53, Initial Report of the Board of Monitors.)

5. This is in accordance with the requirements of Article VIII, Section 14(a) of the 1957 Constitution, that an aggrieved member must exhaust his remedies within the union before resorting to an outside tribunal.

6. The opinion of the Court of Ap-

Charges Board with Prejudice

peals in the instant case is interpreted by this Monitor as adjudicating rights of the parties *under the union Constitution.*

7. The majority of the present Board are of the opinion that the Consent Decree supervened the union Constitution and that that decree gives the Board broad and inquisitorial powers even when its powers conflict with the union Constitution.

8. This was the position of the majority before Judge Letts in chambers on July 16, 1959, when the proposed rules of procedure were discussed. However, within a few days, the Chairman of the Board, in opposition to the Application for Stay filed in the Supreme Court, stated to that Court:

"The opinion of the Court of Appeals makes it clear that the International Constitution is to remain the fundamental law of the union. Internal disciplinary proceedings as well as all the other affairs of the union are to be determined in accordance with that Constitution."

9. This Board now takes all complaints without regard for the constitutional requirements as to exhaustion of remedies.

10. The Court of Appeals defined the Board's power, as recommendatory, consultative and advisory. The majority claims for the Board investigatory powers. The Board is now the equivalent of a "three-man grand jury" inquiring into the International Union.

11. The design of a majority of the Board to exclude the Monitor designated by the union from full participation in the functions of the Board is apparent from the Board records. This is not a new situation. This Monitor's predecessor, Mr. Wells, had occasion to complain in this regard. (See Monitor Wells' dissent to recommendations No. 19 at page 23 of the Court of Appeals Slip Opinion.)

12. In that opinion the court stated as follows:

"We point out also that the Monitors must use procedures which afford opportunity for all three Monitors to participate. Each has its responsibilities as an officer of the court."

13. The plan of exclusion is manifested by the first draft of the proposed rules of the Board dated July 1, 1959. Rule I provided as follows:

"Upon receipt of a complaint, the Chairman will provide copies to other Monitors. It is understood that no Monitor will provide the International Union with a copy of the complaint, or summary thereof, or the name of the complainant."

Employer Talk

Godfrey P. Schmidt, the "man behind the Monitorship," had a few things to say about his trade union philosophy in a sworn deposition he gave recently. In addition to saying he was in favor of so-called "right-to-work" laws, Schmidt also had the following to say to Teamster lawyer Jacob Kossman:

Kossman: You think you have done more for the laboring man than Hoffa has?

Schmidt: No question about that.

Kossman: And when did you start working for the laboring man — when the plaintiffs filed the complaint (which led to the monitorship)?

Schmidt: The day I first represented honorable employers.

Kossman: Employes?

Schmidt: Employers.

14. The present rules of the Board, adopted by a two-to-one vote, does place "discretion" in the Chairman to handle complaints in a confidential manner in their preliminary investigatory stage. The Chairman thus acts as a one-man Board in determining whether the Board has jurisdiction over the complaint, and whether a *prima facie* complaint is made. There is nothing in the Consent Decree which authorizes a one-man Board for any purpose, and the Court of Appeals has stated in plain and simple terms that we should function as a Board and *each* Monitor has his individual obligations.

15. The Chairman of the Board has also expressed opinions amounting to prejudgments with respect to various members of the International Brotherhood of Teamsters on the basis of *ex parte* and unsworn testimony that he has in his possession without giving the official an opportunity to state his side of the story.

16. On several occasions since this Monitor has been a member of the Board he endeavored to have the Chairman take action with respect to general matters pending before the Board, particularly the backlog of cases that have accumulated in the Board files. On each occasion when it was sought to expedite the disposition of pending cases the Chairman stated that the Board would proceed on these matters when we "GOT RID OF HOFFA." He also stated that we would have to "GET RID OF" various members of the General Executive Board and other persons in key positions in the various Joint Councils and Locals of the International Brotherhood of Teamsters.

17. On December 30, 1959, this Monitor again moved that the Board of Monitors proceed to meet more regularly and dispose of all pending complaints. The Chairman stated he would move on all these pending matters when we had gotten rid of *Hoffa, O'Brien, Gibbons, Presser, Trescara, Prebenda, Abe Gordon* and a person named *Holt.* The motion failed for want of a second.

18. On January 13, 1960, at the Chairman's office and in the presence of Mr. Cassidy, he stated that he understood this Monitor was going to testify against him on the matter

of his disqualification. This Monitor told him that he had not been asked to testify but had been requested to file an affidavit as to certain statements made by him with respect to getting "RID OF MR. HOFFA." He further told the Chairman that on the occasions when he had expressed his intention to "GET RID OF MR. HOFFA" that he had included such expressions in the summary of the Board's proceedings which are forwarded after every meeting of the Board to the International and its counsel.

19. He told the Chairman that he intended to supply the affidavit. The Chairman stated that it was true that he had made such statements but that he had regarded them as privileged.

20. On January 22, 1960, this Monitor again raised the question of processing the backlog of pending cases and getting forward with the work of the Board. The Chairman stated: "THIS DECREE WON'T WORK UNTIL WE GET RID OF HOFFA AND GIBBONS." This statement was made in the presence of Monitor Smith and Staff Member Handel.

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21. On March 5, 1960, while the Board was discussing the proposed Nonfeasance Report with respect to the General President, the Chairman stated: *"This Monitorship will not work until we get rid of James Riddle Hoffa."*

Basis of so-called evidence

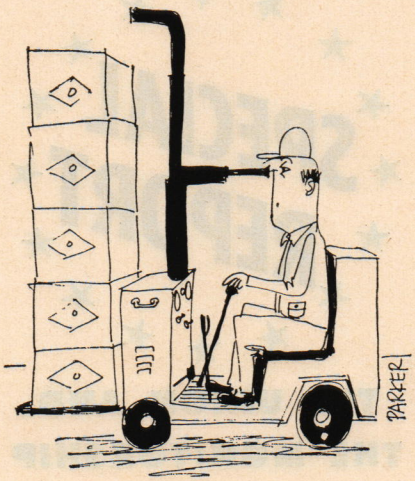
22. On March 5, 1960, when the Board was considering the proposed Interim Report asking removal of the General President for alleged nonfeasance, the following occurred:

(a) With respect to Mr. Gordon, Mr. Holt, Mr. Goldstein, Mr. Smith and Mr. Reynolds of Local 327, all of the allegations were based upon McClellan Committee testimony, the Chairman stated.

(b) With respect to Mr. Presser, the Chairman stated that this was based upon McClellan Committee Hearings plus the records of this Court in Mr. Presser's trial for contempt. The conviction of Mr. Presser is now on appeal.

(c) With respect to Mr. Matula, International Trustee, the Chairman stated that this part of the proposed Report was based upon press reports, plus Matula's affidavit, plus information that he had personally received from a member of the California State Legislature. This Monitor inquired where the press reports were and further asked the Chairman if the Board was going to make determinations on the basis of press reports. The Chairman stated he had read the press reports but didn't have them with him. This Monitor inquired what information there was before the Board from the member of the State Legislature. He stated that the member had come in and talked to him. This Monitor asked the Chairman if he had any affidavits or any supporting evidence. He said he had only what the member of the State Legislature told him. He stated that there were a lot of things he had to keep confidential and that this was one of them.

(d) With respect to the Anti-Racketeering Commission, the Chairman stated that his report to the Court was based entirely upon evidence before the Senate Committee plus correspondence between the International and the Board of Monitors.



23. On September 14, 1959, the Board considered the Sun Valley Interim Report which the Chairman stated was based upon the following matters:

(a) The transcript of the McClellan Committee Hearings; (b) a confidential report of Monitor Schmidt which was never submitted to this Monitor; (c) matters that the Chairman advised the Board he was told by bank officials in Orlando; and (d) matters the Chairman said he saw in bank records in Orlando.

24. In the matters of the Commercial State Bank and Trust Company transactions and the Fidelity Bank transactions which were also set forth in the above-mentioned Interim Report, the Chairman advised the Board they were learned by him and Board Counsel Miller in a secret investigation they had made about a month prior in New York City. No evidence, documentary or otherwise, was presented to the Board. All the Board had before it was the Chairman's oral statement of what he and Mr. Miller saw, and were told in their investigation.

25. With respect to the Fidelity Bank transaction, the Chairman stated and the Board acted solely on the basis of the testimony before the McClellan Committee.

26. As indicative of the now adversary nature of the Board's functions and the lack of opportunity of this Monitor to meaningfully participate in the functions of the Board, an example is presented in the manner of the adoption of the Interim Report of the Board of Monitors filed August 13, 1959 with respect to Local 245.

It was understood among the Monitors that at least 48 hours should be given to the members of the Board on the agenda for the next meeting. When the Local 245 Interim Report was presented to the Board on August 13, 1959, this Monitor had absolutely no notice that this would be on the agenda for that day. The report was read and this Monitor was asked to sign it. He declined to do so, protesting lack of notice, and lack of opportunity to evaluate the file. For further elaboration of the circumstances of the adoption of this report, see the statement of this Moni-

tor which appears in the transcript of the proceedings for Monday, November 2, 1959.

27. A like situation existed, with absolutely no notice to this Monitor in the matter of adoption and consideration of the Interim Report with respect to the Sun Valley transactions filed by the majority on September 14, 1959. For further particulars with respect to the circumstances of this adoption, and a lack of notice to this Monitor as well as the deprivation of this Monitor's right to any real participation in the proceedings of the Board, see this Monitor's separate report filed October 9, 1959.

28. As the Court of Appeals has stated, the Board has a duty to inform the Court fully as to any failure by the defendants to comply in any significant respect with their obligations under the decree, so that this Court may then consider what, if anything, defendants should be ordered to do toward compliance. The Board's function is an informational function, not an accusatory one. In the performance of this function it is incumbent on the Board to learn not only what actions the defendants have or have not taken, but also the defendants' explanation of the reasons why they have or have not taken actions. Having learned all the circumstances, the Board must report *all circumstances* to the Court.

29. The Chairman, however, has completely distorted the Board's function. The Chairman has assumed the role of a Prosecutor, rather than a fact-finder and reporter. He conducts whatever investigations he sees fit and, having persuaded himself that the International Union has been at fault in some respect, undertakes to file an accusation with this Court, leaving it to the International thereafter to present the other side of the case.

A prosecutor who draws an indictment or a grand jury which issues it, limits the document to the allegation of facts constituting a violation of the law. They may be aware of facts and circumstances which tend to refute, explain, extenuate, or mitigate the charge, but the document they produce leaves all such matters in the dark. The course pursued by the Chairman has been in no way different. In connection with the Interim Report on Local 770, for example, the Board of Monitors, although fully aware of the basis of the International's position (see the Amended Reply to the Interim Report filed by the International on March 24, 1960) suppressed these very relevant matters.

Admittedly, a plaintiff tells only his side of the story and hopes that the defendant will fail adequately to present the other side. We are all accustomed to this, because we know that litigation is an adversary process. The operation of the Monitorship, however, is not supposed to be adversary. It is supposed to be consultative, and recommendatory. It is supposed to shed light, not cast shadows.

The same withholding of information by the majority is set forth by the Separate Report of this Monitor filed in this Court on March 28, 1960, in reply to the Interim Report with respect to Gerak. Under the direction of the Chairman, the Board has not only suppressed facts known to it, but has also proceeded in a way calculated to keep facts even from itself. In case after case, it has been content to go to this Court with a fraction of a story gleaned from hearsay testimony, untested by cross-examination and often coming from unsworn witnesses. It has failed to consult with the International in an effort to ascertain what the real truth might be. (See Separate Reports of this Monitor, reference Gerak, Sun Valley, and Local 245.)

30. To facilitate the conduct of the Monitorship as an adversary rather than a consultative mechanism, the Chairman has embarked on a studied course of barring this affiant, as a member of the Board nominated by the defendants, from any real opportunity to participate in the Board's deliberations and decisions. (See separate reports and dissents of this Monitor referred to above.)

31. The Board, as a result of the foregoing actions, now bears no resemblance to the institution established under the Consent Decree and described by the Court of Appeals. It has become successively, first a three-man grand jury, and now a one-man grand jury, committed in advance to an anti-defendant program operating with virtually unlimited funds and paid for by its victims. It has, moreover, usurped the adversary role of the plaintiffs in the litigation.

For example, it is the Board, rather than counsel for the plaintiffs, who have been the principal antagonists to all union members who have intervened or sought to intervene in this litigation. Whatever the merits of the various proposed interventions have been, there is no theory justifying any expenditure of Monitorial energy on the controversy, unless it be that the Board has undertaken to act for the present nominal plaintiffs.

Congressman Hoffman Praises Hoffa

Congressman Clare Hoffman of Michigan joined in the long list of Congressmen who have taken the floor of the House to denounce the court-appointed Board of Monitors.

Hoffman commended the International Brotherhood of Teamsters and General President James R. Hoffa for steps that have been taken to oust undesirable elements.

"I wish to call special attention to the fact that, of the 105 (members) listed by the McClellan Committee, 41 are no longer with the Teamsters Union," said Hoffman.

"This has occurred since Hoffa was elected General President. During this same period, 56 trusteed locals were returned to self-government of the rank and file," he added.

The Michigan Republican said that the "Teamsters charge that if the monitors had not interfered, all 109 trusteed locals would be back in the control of the membership."

He said that the Teamsters required 14,000 officers and employees to sign affidavits testifying that they were in compliance with the Kennedy-Landrum-Griffin law.

"Only four individuals declined to sign affidavits, disqualifying themselves," Hoffman added.

"These two documents provide eloquent testimony concerning the very small number of Teamster officials still holding office and who are guilty of any crime greater than a misdemeanor such as a picket line offense," he explained.

Hoffman declared: "I would like to ask Hoffa's critics, including Secretary of Labor Mitchell, how many of the Walter Reuther boys are entitled to hold office and how many of those unions have filed required reports as compared with those filed by the Teamsters."

An Interview With Hoffa

Teamster President Answers Questions On Wide Range of Issues in Six-City Broadcast

General President James R. Hoffa last month answered questions from two reporters for the Westinghouse chain of radio stations in an interview broadcast in six major cities in the U. S.

The reporters—Jim Snyder and Mike Levine—covered a wide range of topics. Because of the importance of the questions—and President Hoffa's answers—to the IBT membership, the interview is printed in full below:

SNYDER: Mr. Hoffa, you and other Teamster officials have spent a lot of time in court rooms and Congressional hearing rooms in the past four years, and it has been almost three years now since your union was expelled from the AFL-CIO. What's been the effect on the Teamsters Union? For example, what are your latest membership figures?"

HOFFA: "The International Brotherhood of Teamsters today has a membership of some 1,677,000 members. We have gained repeatedly each year since we have been out of the Federation, even though many of the international unions in the Federation have continuously lost members. We are gaining each and every day new members, better contracts and working conditions for our members."

SNYDER: "These last few years have also been an expensive time for your union. For example, the Teamsters spent $242,000 for lobbying activities in 1959. That's a good deal more than any other lobbying group reported. Did all that money go to fighting the Landrum-Griffin labor reform bill?"

HOFFA: "The money spent by the International Union for lobbying expense was primarily spent for the defeat of the Kennedy-Landrum-Griffin bill. However, the expenditure also entailed information being sent out to our members throughout the United States to properly inform them of the way their congressmen and senators are voting."

SNYDER: "Well, this leads to my question, do you have any other legislative goals except fighting labor reform legislation? Do you agree generally with the legislative program of the AFL-CIO?"

HOFFA: "We have the same interest as the AFL-CIO in having decent legislation passed for the aged or the needy and for the labor unions throughout America, so that they can be properly represented across the bargaining table with their employers. However, the method and means of having this accomplished are somewhat different than the AFL-CIO. They are approaching it through COPE; we are approaching it through our joint councils and local unions throughout the United States."

LEVINE: "Mr. Hoffa, in a recent public statement, you said you were having considerable legal difficulties with the Board of Monitors. Has that legal difficulty been costing your union a lot of money too, the way your legislative matters have been costing you money?"

HOFFA: "The monitors since the very inception set up by the consent decree have cost this international union well over one million dollars."

LEVINE: "A million dollars—in what form, sir?"

HOFFA: "In the technical staff for the monitors, the salary expenses of the monitors, and the legal firms employed by the monitors to pursue their endeavors in the federal court."

SNYDER: "About those monitors, what's your reaction to the newest member of the board, Mr. Terence McShane?"

HOFFA: "Well, as I stated upon his appointment, I am very surprised that Terence McShane would even accept the job as a monitor, having been the person who worked on the case in which I was indicted, (McShane) was a witness in the federal court where I was acquitted by a jury. I was surprised that he would accept the appointment, having no background of labor, having no knowledge of the legal views that will be needed in the process of the every-day operation of the monitors, and not being a lawyer. I was surprised that a man would give up nine years of seniority with the FBI for a so-called temporary job, even though it will pay him probably six times more than he made any given year that he was working for the FBI."

SNYDER: "During some of those years with the FBI, he was investigating Mr. Hoffa—you. Do you feel—incidentally, when this Board of Monitors was formed about three years ago, you were apparently in favor of the move to create the Board. Do you now feel that the Board, including Mr. McShane, is more concerned with getting you out of your office than they are with improving your union?"

HOFFA: "When you say we accepted the monitorship, we accepted the monitorship in lieu of a long-drawn out court case—"

SNYDER: "It was a consent decree."

HOFFA: "—and entered into a contract which became a consent decree by Federal Judge Letts' signature. At that time, however, it was understood that this would be for a period of one year. At that time a convention would be called, and the membership would have the right to remove the monitors if they desired. Since then, the monitors have perpetuated themselves in office, and as O'Donoghue, Chairman of the Board of Monitors, recently stated, it was first necessary for him to get rid of Hoffa before he would carry out the consent decree as originally agreed to.

"This was not supposed to be an adversary proceeding, but was supposed to be a conciliatory meeting to work out the problems of the rank and file Teamsters. We believe it has now become a question of survival of either O'Donoghue, the Chairman of the Board of Monitors, or James Hoffa, who was elected by the delegates to a convention representing 1,677,000 people, not based upon the merits of the case, but based upon the desire, the aspirations of Martin O'Donoghue to eliminate me from office."

SNYDER: "Well, how long do you expect this conflict to go on? Do you think you'll have several more years of this, or do you think some kind of compromise can be worked out?"

HOFFA: "We have filed with the court recently three petitions; one, an injunction restraining the monitors from carrying on as they are; two, a request that a convention be conducted by the federal courts in compliance with the constitution of the international union; and three, that Martin O'Donoghue be removed because of his obvious conflict of interest in the instance of where he is acting as a chairman of the monitors and previously represented myself as an individual and took a fee of $45,000 from this international union, and is now using the confidential information that he gained as a lawyer in the handling of the Teamsters affairs for the purpose of persecuting and prosecuting one James Hoffa, President of the Brotherhood of Teamsters."

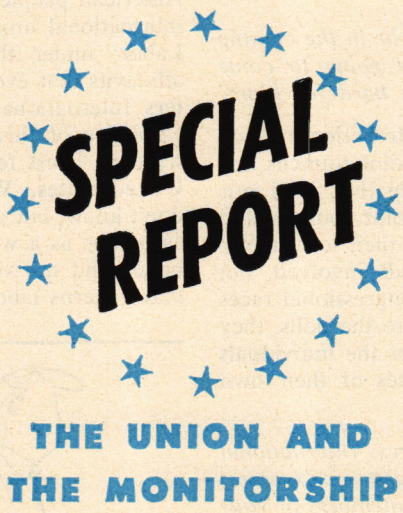
SNYDER: "Mr. Hoffa, have you read Robert Kennedy's book, 'The Enemy Within'?"

HOFFA: "Yes, I have."

SNYDER: "What did you think of it?"

HOFFA: "I again say that Robert Kennedy has exercised due caution, recognizing that the material in the book was taken under congressional immunity; he has merely repeated the hearsay information in his book that was given to the committee. It is unfair, it is biased, prejudiced, and in my opinion libelous."

LEVINE: "Well, now, Mr. Kennedy says some very strong things in that book about you; some of them he has said before. That brings up the question, what do you think is your image to the public of this country. You disagree with Mr. Kennedy, of course, but do you see evidence that he has convinced a lot of people that you're the kind of man he says you are."



HOFFA: "I'd be willing to debate with Bob Kennedy on radio or TV at my own personal expense, anywhere in this country, any issue he desires to debate, and then let the American people vote on whether or not they believe that the image created by Kennedy is the actual Jimmy Hoffa who is President of the Teamsters International Union, or whether in his wild desire to elect his brother as President of the United States, he has not used every underhanded tactic he could use, and the greatest PR arrangement in this world, to try and distort, deceive and destroy, if possible, James Hoffa."

LEVINE: "Well, that debate hasn't taken place yet, sir."

HOFFA: "He has failed consistently to accept. I have agreed in each instance to go on any network; many have requested us to go on jointly; he has refused; and now I have offered that we will buy time agreeable to him to debate the issue of the Hoffa vs. Kennedy version of the Teamsters Union to the citizens of the United States and let them be the judge."

SNYDER: "But do you concede that as of today, he is leading in this public relations battle—"

HOFFA: "No, I do not, and the best evidence is that the anti-union employers of America are rehashing and using the propaganda of the McClellan Committee, which it was originally intended for, to be able to destroy and defeat the Teamsters Union's (representation) elections, but the American working people are much smarter than Congress gives them credit for, or the employers give them credit for. The result is that despite their rehash, at every election we have we are winning our (representation) elections, repeatedly throughout the United States of men desirous of belonging to the Teamsters Union.

I do not believe you can trick the American people by false propaganda, because they are so used to it that now they can read between the lines and find the truth, and as the old saying goes, you can fool some of the people some of the time, but not all the people all the time, and there is no way of deceiving 1,677,000 American people all the time."

LEVINE: "Mr. Hoffa, I have a double question. What sort of a reputation do you feel you hold in the eyes of the average American; secondly, how do you feel you rate with the 1,677,000 members of your union?"

HOFFA: "Mike, I believe from my association with all walks of life in this United States that I'm accepted as a labor leader, and so far as the Teamster members are concerned, I'm accepted wherever I go, by the rank and file members of the Teamsters Union as the person they desire to lead this great international union."

LEVINE: "They like you?"

HOFFA: "I have found no dissidents anywhere in the United States, including the 13, that have said they are desirous of getting rid of Hoffa, but rather they are desirous of maintaining Hoffa in office because I have carried out my obligations, to organize the unorganized and to assist

in negotiating for better wages, hours and conditions in this international union."

SNYDER: "Mr. Hoffa, you've publicized your opposition to the reelection of some 52 members of the House of Representatives who voted for the Landrum-Griffin bill. They, in turn, are rather happily campaigning as men who have been marked for defeat by James Hoffa. Do you regret your move against these congressmen? Do you feel that you've helped them really?"

HOFFA: "Well, in the first instance, it was greatly exaggerated insofar as my statement originally was concerned, because I stated at that time it was my desire to publicize to all the members of organized labor, not just the Teamsters, the voting records of these individuals, who for the first time in the history of this country make strike-breakers out of union men, forcing one man to strike-break against another.

And it is my firm belief that I was right then and right now, and ultimately as the American people become aware of this destructive legislation, they will, in my opinion, go to the polls and vote against those individuals who deliberately shackled organized labor from having their economic right to use their economic strength and gain their bargaining demands at the collective bargaining table."

"International won't endorse"

LEVINE: "How active do you plan to be in the coming presidential election campaign? Are you going to come out for any one candidate and campaign hard for him?"

HOFFA: "We do not intend as an international union to endorse a presidential candidate. The joint councils and local unions will make their own choice, but it is our responsibility and duty to submit to the joint councils and local unions, who in turn will submit it to their local members, the voting records of the individuals involved, not only in the presidential race, but in the congressional races throughout the country, so when they go to the polls, they are properly aware of the voting record of the individuals and they can vote then for the candidates of their own choice and desire."

LEVINE: "A few days ago, United Press International reported that you planned to report congressmen's secret conversations in the capitol cloakrooms to members of your union. UPI referred to the plan as Hoffa's Gestapo. Can you elaborate on that plan, how and why you want to carry it out?"

HOFFA: "Well, again, this points out how ridiculous newspapers can really be, and TV and radio, carrying a story so silly as this statement that they obviously picked up out of an article printed in our magazine, which in no instance stated that we were creating any kind of Gestapo or were going to report anything other than the truth.

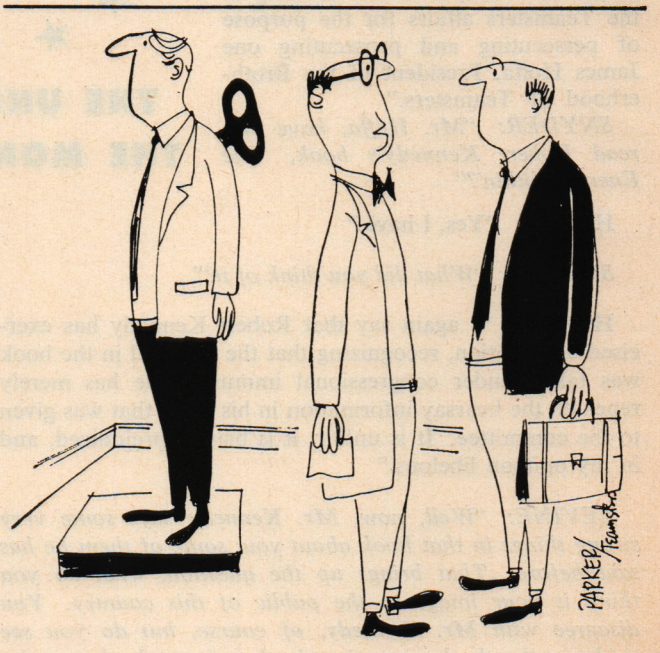
I said it to the representative of the UPI, and I say it to you, Mike and Jim, that our international union will reserve the right, as every other medium of expression to the people of the United States reserve the right, to notify our people of not only the actions of congressmen and senators on the floor, but their actions in committees, and wherever we are able to learn of discussions concerning a bill and report the discussion; because ofttimes discussions are somewhat different than the question that is voted upon on the floor, but having the (record of the) discussion, the question and the vote, gives the voters of America the right to determine for themselves whether or not they desire to vote for or against the candidate making such expressions."

LEVINE: "Mr. Hoffa, the article made much of the fact that you even intended to elaborate on some of the comments that were made in the cloakroom discussions. How do you plan to get information from the usually confined quarters of the Capitol Building cloakrooms?"

HOFFA: "Well, I think that the TV commentators and the radio commentators and the newspaper reporters of America have taught the Teamsters Unions methods of gaining information, and that is by having friends who are in a position to be able to discuss controversial problems intimately with other individuals, and who are desirous of giving to individuals, so that it can be truly expressed to the American people, the intimate thinking as well as the public expression of congressmen and senators."

LEVINE: "Mr. Hoffa, among the many charges made against you by the Senate Rackets Committee in its final report are charges that you've teamed with known criminals and granted union charters to men with criminal records, and have kept convicted Teamsters on the union payroll while they were serving time in jail. Now what's your reaction to those charges?"

HOFFA: "I say, as I said under oath to the McClellan Committee, they are exaggerated, in many instances complete lies, and I say to you, Mike and Jim, and to the American people listening to this program, this is the only international union that has submitted to the Secretary of Labor, under the Kennedy-Landrum-Griffin bill, sworn affidavits that every person holding an office in the Teamsters International Union, whether he be an officer or an employee of this organization, is in complete compliance with the latest federal laws governing labor unions in this United States. What more can be expected of a union, I don't know, but we stand and reserve the right to be treated as unions as a whole are treated in the United States. No better and no worse. We are at least entitled to the law that governs labor unions in this country."



It's the new model labor leader ordered by the Kennedy, Landrum & Griffin Corporation . . . . ."

LEVINE: "I gather that you were opposed then to the section of the Landrum-Griffin bill which dealt with—I forget the number of years—"

HOFFA: "502, five years."

LEVINE: "—a man could not, five years, not serve in union office if he had been in jail within five years. Do you disagree with that?"

HOFFA: "As I told the students at Michigan University last Monday night, I am in disagreement with Section 502 of this law which prohibits individuals who committed certain crimes from holding office in unions. I say there can be no second-class citizens in the United States, and if it is the desire of the legislature to pass laws prohibiting certain type persons from holding office in a union, let the same rule hold true in the case of congressmen, senators, businessmen and all segments of society. But do not say that people can be rehabilitated once they have paid their penalty, with the exception of being rehabilitated to hold a union office. Therefore I am in disagreement, completely, with 502, because it creates a second-class citizen and destroys rehabilitation, which is costing this government millions of dollars every year."

SNYDER: "Mr. Hoffa, you've said in the past that you some day hope to organize all transportation workers on land, on sea and in the air into one big labor group. How are you progressing toward that goal?"

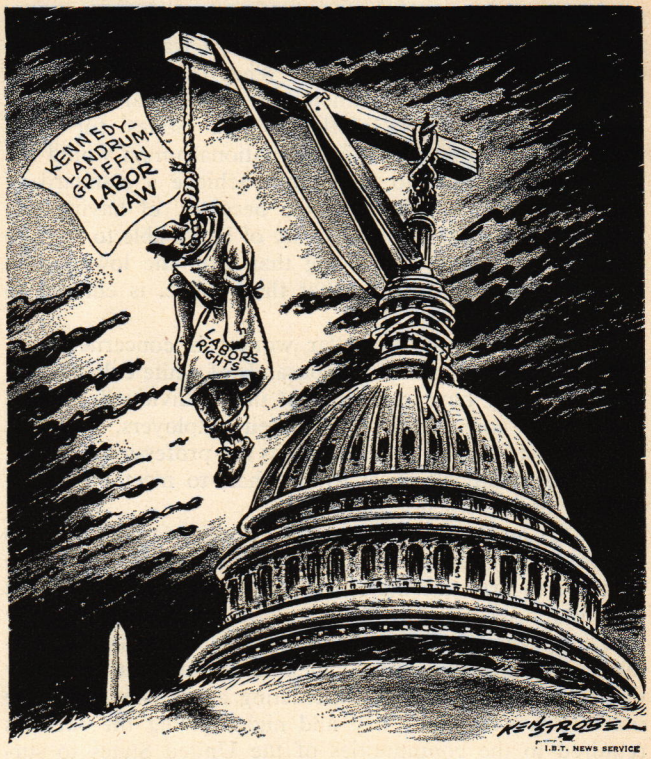
HOFFA: "Well, of course, this statement is inaccurate. What I said is this, and I still contend it's proper and ultimately will come about, that there be formed a council of the international unions who organize transportation workers, both land, sea and air, not for the purpose of one large union, but for the purpose of being able to exchange ideas, to be able to exchange viewpoints in the necessary contractual negotiations between employers and unions, to avoid jurisdictional disputes, and to cooperate in organizing the unorganized workers of America.

This ultimately in my opinion will come true, because today unions are doing business with big concerns, and with Title Seven of the Kennedy-Landrum-Griffin bill, which creates strikebreakers out of the union men, unless there is a common expiration date, where each strike becomes a primary strike, it will ultimately destroy this labor movement."

"In my opinion, as to the destruction, we will create a council of transportation unions in the United States, irrespective of the high-sounding statements of certain leaders because ultimately the rank and file, who are the last word concerning what their officers will do, will force their officers into recognizing the realities of life, and that is the common expiration date, joint concerted action, which is necessary to survive under the Kennedy-Landrum-Griffin bill."

LEVINE: "But it was stated here in Washington that you, personally, hoped to head this amalgamation of transportation workers, a move which, it was stated—and I forget who said it—but it was stated this move would give you more power than the federal government itself."

HOFFA: "Mike, Bobby Kennedy said that, and he said it again to be able to get a headline for his brother, John, hoping that it would attract sufficient attention to be able to get him elected President of the United States. And as I told Kennedy under oath, and as I tell you here, with the American people listening to this, the American public, this is an outright lie, because the officers of that council



would necessarily under the new law, and under the old law, be elected by the representatives to that council of transportation. Hoffa would only have one vote, the same as the rest of the delegates at that meeting."

SNYDER: "One more reference to Mr. Kennedy—Robert Kennedy—in his book and the Rackets Committee in its final report state that your reputation as a man who always gets good contracts for his men is not true, that on several occasions you have gotten your men less than could have been gotten. What's your answer to that?"

HOFFA: "I say to you that it's hard to conceive of the American people willing to accept the theory that a young millionaire, who never worked in his life, never had to face up to meeting a budget, would be able to determine what is good or bad for working people. And I say to you in each instance, each contract I have signed has been submitted to the rank and file, has been discussed and finally voted upon by a majority to be accepted.

Yes, it is true I have met the daily operations of this union, and we have changed contracts with the agreement of the members to meet the changing of times and the salvation of an employer who would have gone out of business unless we had given some temporary relief where he could maintain the jobs of our members. It is not our duty as union officers to put companies out of business and displace our members out of work, but rather to meet the challenge of each day; and meeting that challenge, be flexible enough to realize and recognize that these are changing times, and in those changing times you must be willing to compromise to be able to survive, as we are doing in the UN, in our State Department, every day in the week with all the foreign countries in the world."

SNYDER: "What plans do you have in the future for the Teamsters Union? Do you, for instance, still want to organize the nation's municipal police forces into the Teamster's Union? Are you out to organize office and white collar workers into your union?"

HOFFA: "Well, again, of course, this is a great distor-

tion, where the desire to seek headlines was greater than the reporter's imagination, when he stated it was my desire to organize the police of America. What I actually said was this, that the police departments of America are the most underpaid individuals in the United States for their responsibilities, and that this international union would use its economic power to help them achieve a standard of living which would eliminate the necessity of having two jobs, would eliminate the necessity of being able to have to plead for a standard of living that even the lowest paid worker in the community, that they police, is entitled to receive.

"So far as the white collar worker is concerned, yes, it is true, we are organizing thousands of white collar workers who finally have realized that they individually cannot stand alone and negotiate with their employers, but must have the unity, must have unions as the professional driver, the professional industrial worker has, to meet on an organized basis with his employer.

"So far as municipal employees are concerned, yes, we are organizing them by the thousands, and we desire to continue to organize them, because again we find that the city administrations in their budget policies very rarely take into consideration the standard of living that individuals are entitled to, but rather limit the amount of money they have to spend, thereby creating a problem for those individuals who work day and night, giving the services required to the communities of the United States to survive."

SNYDER: "Mr. Hoffa, a couple of fast personal questions. How many hours a day do you put in on this job of yours? Many people think that you do nothing but appear before congressional committees."

HOFFA: "Well, I would say that I average from 12 to 15 hours a day, six to seven days a week, whether it was the congressional committees in the last two or three years, or whether I worked for my own local union. I like this job. I like to represent the individauls I represent. Every hour I work here is an hour of pleasure, and the hours, whether it be 8, 10, 12 or 15, disappear like magic, and each day I look anew to settle the problems that come into this office in behalf of our 900 local unions throughout the United States, because a satisfied member is again the best person for the carrying of information to unorganized workers, and to organize the balance of transportation in our jurisdiction in the United States."

LEVINE: "Well, with all your busy schedule here, why do you still maintain your position as head of the Detroit local?"

HOFFA: "I have had experience with general presidents who have lost touch with the local union affairs, and I am a firm believer that being in a building such as this, six and a half million dollars and the luxurious surroundings, meeting with the important people who come in and out of this building, meeting senators, congressmen and employers and industrialists in this country, very conceivably you can forget where you came from.

"I have no desire to forget where I came from. I am not ashamed of my background. I am proud of it. And I believe by remaining the president of my local union and conducting those local union meetings, rubbing shoulders with the men who made me what I am today, that it will allow me to understand and appreciate the fact that the workers today who belong to unions, are the individuals' sons and daughters of tomorrow and will be the people who perpetuate our union, and unless we understand their problems, we can not properly represent them."

SNYDER: "I was going to ask you what you do on week-ends, in your spare time, but I guess you work for the Teamsters."

HOFFA: "I work for the Teamsters six and seven days a week, five and six nights a week. It is my pleasure to be able to travel all around the United States, talking to our members, talking to the labor movement as a whole. In addition to that, I make it my business to at least once every 90 days conduct my own local union's membership meeting in Detroit, Local 299; make it my business to sit on grievance meetings, negotiate contracts, and generally administer the affairs of this international union as I believe is for the best interest of all of the members in the United States. They have a right to determine at a conveniton as to whether or not I have carried out my responsibilities, as to whether or not I deserve the right to represent this international union.

"And all I ask of the monitors, all I ask of the federal court, all I ask of the Congress of the United States, is to allow a convention to be called of the 900 local union delegates and let them elect who they want to run this international union, whether it be Hoffa or anybody else."

Soak-the-Poor Tax Policy Explained

High income taxpayers pay lower Federal income tax rates than lower income taxpayers, a Johns Hopkins University economist has told the House Ways and Means Committee.

Richard Musgrove, Johns Hopkins political economist, testified that only the taxpayers in the $5,000 to $20,000 a year income bracket pay close to the full tax rates specified by the Internal Revenue code.

In comparison, taxpayers in both the lower and higher income groups pay much lower rates than those prescribed in the tax laws. These groups evade taxes through the many loopholes that have riddled the Internal Revenue code.

Musgrove made his study specifically for the Ways and Means Committee which is conducting long range hearings preparatory to extensive tax law revisions.

The House of Representatives is charged by the Constitution with the initial authority to make tax laws and appropriate tax monies. The House Ways and Means and Appropriations Committees handle these two functions.

They have their counterparts in the Senate Finance and Appropriations Committees, but the initial action must come from the House.

Musgrove's study clearly indicates that the so-called "steep progression" in tax rates—from 20% to 91%—has become a myth as a result of the many loopholes.

Here are some of his conclusions:

—Taxpayers with incomes of approximately $1,000,000 each year pay only 26% of the taxes they should pay, evading 74% of what they should pay through the many loopholes.

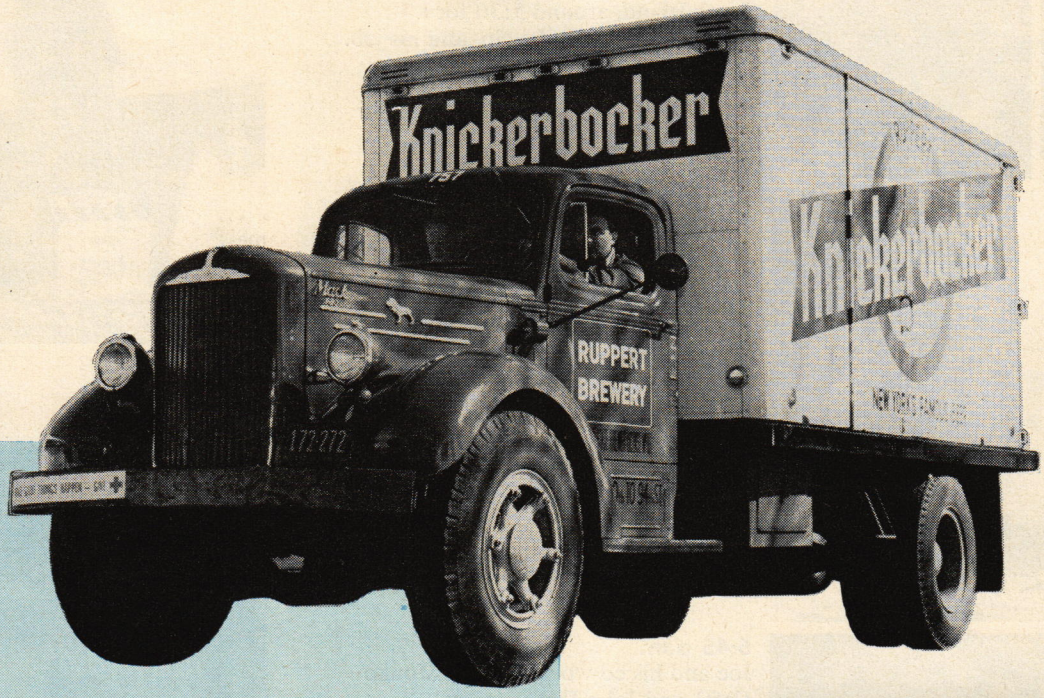
—Taxpayers in the $15,000 to $25,000 bracket pay 53% of what they should pay.

—Taxpayers in the $10,000 to $15,000 bracket pay 62% of what they should pay.

—Taxpayers in the $5,000 to $10,000 bracket pay 66% of what they should pay.

—Taxpayers in the $600 to $2,500 bracket pay 24% of what they should pay.

DAY WITH A DRIVER



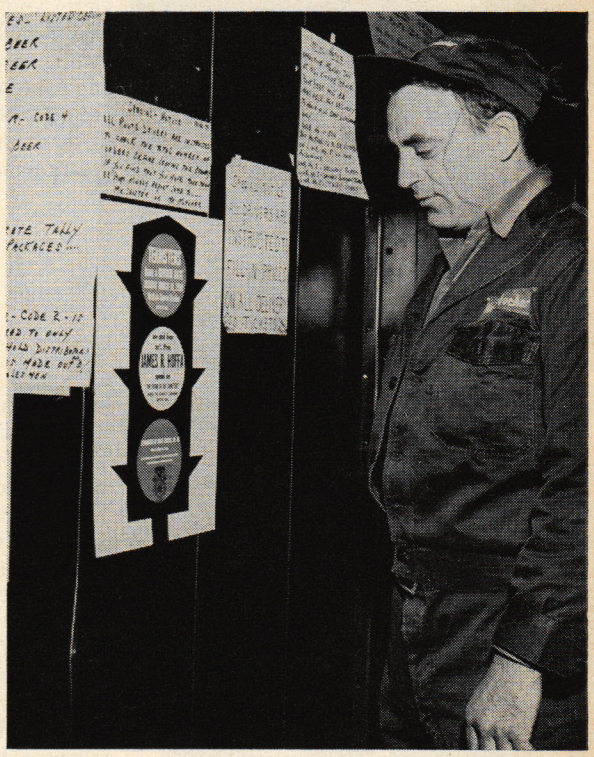
THE successful Teamster driver of a brewery truck has a pleasant personality, husky shoulders, pride in his company's product—and a good alarm clock. For his working day must begin around 5:30 a.m., an hour when most of his neighbors are rolling over for another 15 or 20 winks.

Recently, a girl editor and a photographer for KEYSTONE, house organ for employes of the Jacob Ruppert Brewery, accompanied Teamster Joe Himmelstein on his rounds. It was the coldest day of the year, but Joe stayed busy enough to keep warm in his cotton twill uniform.

To service the 325 accounts on his route, the Long Island Teamster covers more than 4,500 miles a month and handles more than 12,000 pounds a day. The KEYSTONE editor said:

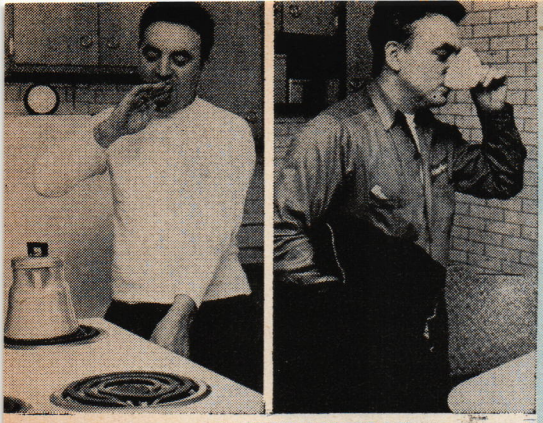
"We learned that Joe Himmelstein is more than just a hard worker. He—like his hundreds of fellow drivers and helpers—is an important brewery emissary . . . a vital link between the production of our fine beer and its delivery to the stores, bars and restaurants where it is sold. Their promptness, dependability and courtesy help build the brewery's reputation in the trade."

The hour-by-hour report of the team is found in the photos and captions on these pages.

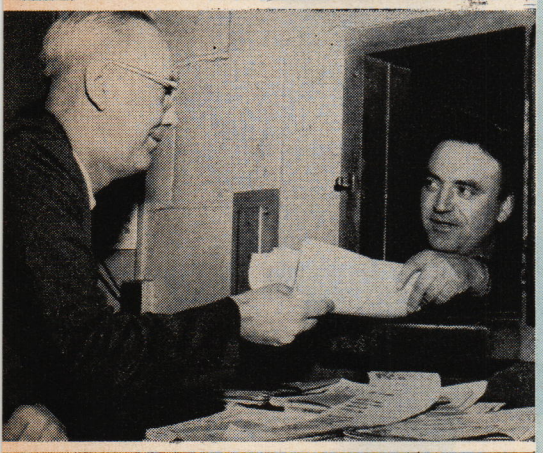


Himmelstein checks union bulletin board prior to his daily run for Ruppert Brewery.

Norma Chaty, editor of "Keystone," was an interested passenger during her "Day with a Teamster Driver."



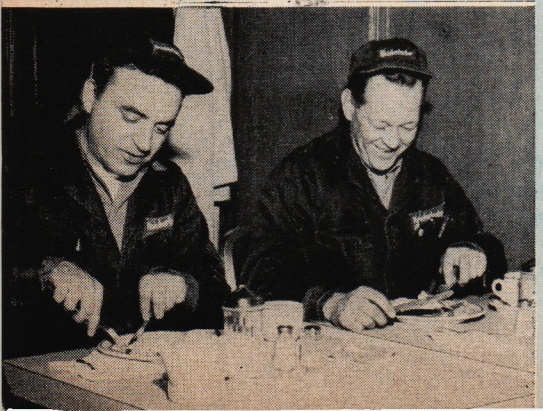
5:00 a.m.
JOE'S DAY BEGINS
After grabbing a quick cup of coffee, he leaves his home in Old Bethpage, Long Island, around 5:30 for a 40-mile drive into the city and his job.



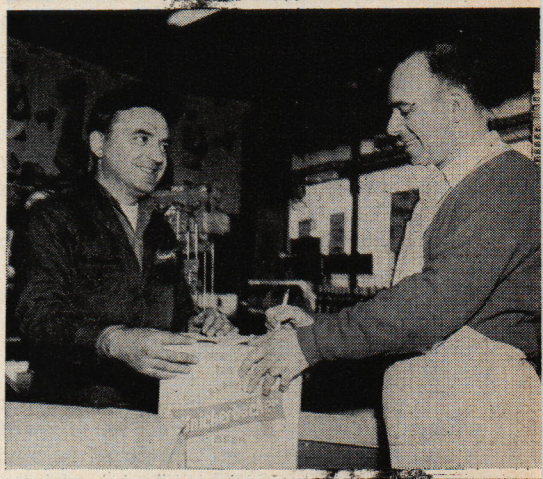
6:35 a.m.
First he punches in, then picks up his order slips. Arthur Schuster hands Joe his 22 delivery slips which the Traffic Department has scheduled from the orders turned in by the sales manager of his area.

6:45 a.m.
Joe and his co-workers Nick Monko (left) and John Dunst (right) utilize the long tables at the 93rd Street Traffic Office to lay out order slips and route their day. Kibitzing over Joe's shoulder is Carl Foyer, a Rupperteering driver responsible for opening many new accounts.

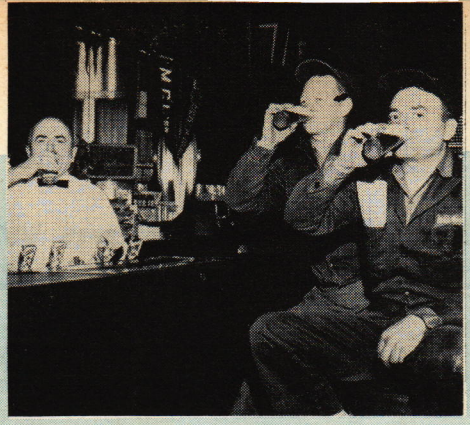
6:55 a.m.
Joe checks the garage for truck 757 which has been assigned to him for the day. He makes sure the truck seal has not been broken and then he and his helper, Charlie Vogenberger, check out the beer in the truck against the loading diagram. Each truck is loaded the night before and the truck then sealed to prevent pilferage. Joe, with Charlie's help, always makes a careful check of the diagram which shows how the truck is loaded, for once they leave the Brewery's premises, he's responsible for shortages.



7:15 a.m.
Breakfast en route. It's going to be a long day so the boys eat heartily. Joe, a great punster fills Charlie in with his latest quip:
"I can understand any language but Greek, honest I can.
Go ahead, say something to me in a foreign language."
"Como esta Usted?"
"That's Greek to me."



8:45 a.m.
First delivery made. Joe services both on and off premise accounts in Nassau County. This morning his initial delivery is to Argus Bowling Lane in Elmont. The place is not opened yet for the day, so Joe and Charlie stack the beer in the cellar as is customary.



10:45 a.m.
After the halves are all stored neatly away in Blossom Lounge's refrigerated cellar, Willy Zoto, the Blossom's day "boss," draws a perfect glass of Ruppert brew for the boys and himself. Next time around, Joe will sport and he'll still be ahead.
Blossom Lounge serves a 14 oz. glass of Ruppert for 30¢.

11:30 a.m.
Hempstead Branch—12th stop of the day, Charlie Craswell receives the delivery of 20 cases for the thirsty sales force at the Hempstead, Long Island Branch. It is from here that the Brewery's Traffic Department receives case and keg orders for Nassau and Suffolk County customers which are then routed to driver.

9:35 a.m.
Finishes delivering halves at the famous Plattdütche Park Restaurant in Franklin Square. This famous amusement park, comparatively quiet during biting winter months, is one of Joe's busiest customers in warmer weather. This attractive facade fronts the park where dancing, golfing, picnicking and "beer weather" fun abides.

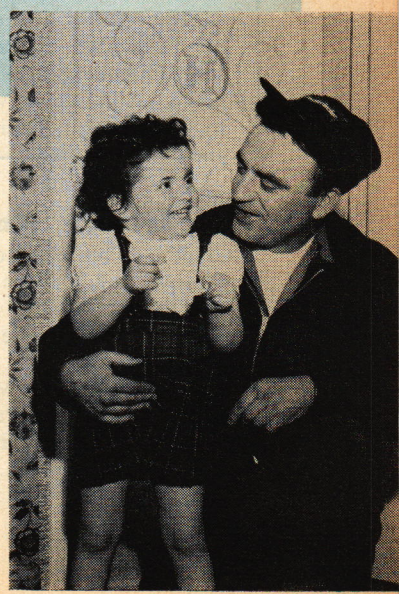
10:00 a.m.
Special stop at Economy Market on Franklin Avenue. Regular delivery is scheduled for Monday the following week but Joe drops off a few cases of Ruppert Knickerbocker so owner Leon Brauer will not run out of stock. Joe notices the Ruppert wall poster is out of date and makes a mental note to tell his salesman about it when he stops at the Hempstead Branch later in the day.

11:40 a.m.
Joe, on hearing about the forthcoming transfer of branch salesman Herb Coleman, (with whom he worked closely) takes time out to wish him well on his new position in Manhattan territory. Whenever at the branch, Joe reports any pertinent customer queries, suggestions, etc. to his salesman. An enthusiastic Rupperteer, Joe made sure that the Plainview Volunteer Firefighters Association (of which he is a member) bought 500 cases of Ruppert beer for their tournament.

2:20 p.m.
Last stop of the day. Herman Cordes' delicatessen on Hempstead Avenue gets a supply of one of his best selling brews. Here, Joe picks up a supply of bubble gum, his admission ticket home. Although his final stop of the day, Joe has yet to return truck to the city, seal it up, turn in cash from payments at 93rd Street office and punch out before his work day is over.

10:30 a.m.
Blossom Lounge—100% Ruppert draft account—gets 10 halves. Considered the "center of the universe" by Adelphi College students, each collegiate patron is issued a Blossom membership card which bears his signature on front and which is countersigned by owner Cal Abrams. This card, which is not transferable and which contains complete description of the bearer on its back, is not only an effective merchandising tool, it solves the "minor" problem.

4:10 p.m.
Official greeter Ellen welcomes daddy home. It's been a long and busy day and Joe—who left the house nearly 12 hours earlier is glad to be back. Over and above the more than 70 miles a day he covers on a Ruppert truck, he commutes 80 more miles daily to and from work for a total of 150 miles. But it's well worth it—for when he arrives home, it is to his *own* modern and attractive six-room ranch house.
Here he is king.



Hoffa Backs Lewis Drive

General President Hoffa pledges support to organizing program to William Lewis, president of Local 237, prior to N.Y. dinner given in Hoffa's honor.

A pledge to back Local 237's organizing drive involving New York state employees "all the way," was given to William Lewis, president of Local 237, at a dinner given by the New York local union in the General President's honor last month.

The drive, directed by Lewis, is being conducted at Pilgrim State Hospital, West Brentwood, L. I., and the Central Islip State Hospital. Mrs. Irene Rideout is the union's organizer and in charge of membership recruitment.

Other guests at the Hoffa dinner included Vice President John O'Rourke and Joseph Konowe, Administrative Assistant to the General President.

Boost in Minimum Wage, Extended Coverage Urged by Local Secretary

A "modest increase" in the Federal minimum wage law would not hurt the low wage industries, Secretary of Labor James Mitchell told Congress last month in urging an increased minimum wage and coverage several million workers not presently covered.

Mitchell did not mention any specific increase in the minimum wage law, which at present is only $1.00 an hour. Legislation before Congress calls for an increase to $1.25.

Teamster officials have supported the legislation before Congress calling for $1.25. The legislation was proposed by Senator Wayne Morse of Oregon and Congressman James Roosevelt of California. General President James R. Hoffa has called for $1.50 absolute minimum wage in all Teamster-negotiated contracts.

Mitchell, in a letter to House Speaker Sam Rayburn and Vice President Nixon, emphasized extending the minimum wage law to workers not presently covered. He said that extended coverage was "the most important action" Congress could take.

"In each of the past seven years," said Mitchell, "President Eisenhower has recommended that minimum wage protection be extended to several million additional workers.

"Congressional Committee have considered proposals for broadening extension of the Act in all but two of these years. Yet in all that time no bill to extend the coverage of the Act has come to a vote in either House of the Congress.

"I earnestly hope that this year legislation to extend the Act's coverage will be enacted. I am convinced that this is the most important legislative action that the Congress can take with respect to Federal minimum wage legislation," Mitchell declared.

Oregon Local Votes Merger

The membership of Teamster Local 321 in Bend, Oregon, has voted overwhelmingly to effect a merger with Local 911 in Klamath Falls, Oregon, reports Lee Judd, secretary of Local 911. The action was approved by Joint Council 37 after Local 321's membership indicated they were in favor of such a move.

Hugh Cole, veteran secretary of Local 321, will serve as business representative for the merged Local.

Utah Local 222 Holds Election

Under union policy of removing trusteeships as soon as possible, Local 222 in Salt Lake City, Utah, recently held an election of officers under the International Constitution.

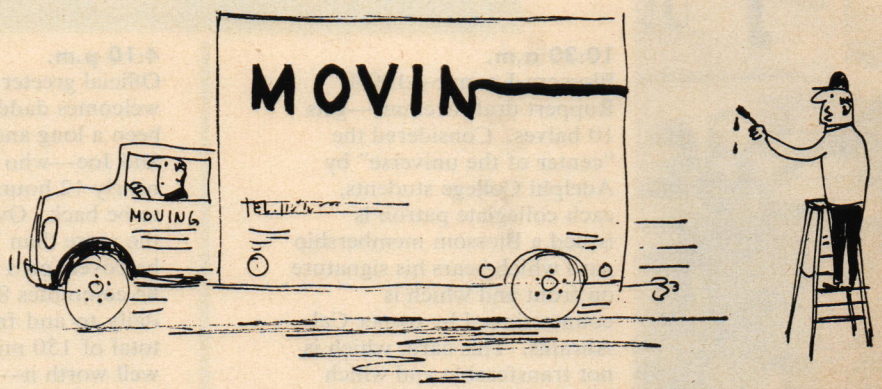
Fullmer H. Latter regained the post of secretary-treasurer while William Fackerall was named president, a post he had formerly held by appointment.

Orlando Allen was elected vice-president and Grant Haslam was named recording secretary.

Crosby Named

Clyde C. Crosby, International Representative for Oregon, was recently named Director of the Over-the-Road Division of the Western Conference of Teamsters.

The appointment was announced by Einar O. Mohn, President of the Western Conference, in the Conference's monthly report to its affiliate organizations.



"Hold It!"

PROGRAM GATHERING MOMENTUM

DRIVE meetings in St. Paul, Philadelphia, Atlanta, Jersey City, San Francisco and Minneapolis last month marked a growing momentum in efforts by Teamster Joint Councils to build strong political education programs in 1960.

The IBT Department of Legislation and Political Education reported that many Joint Councils were appointing full-time political directors to develop programs. Sidney Zagri, legislative director, said that five new Joint Councils in the southeast U.S. were the latest to do so.

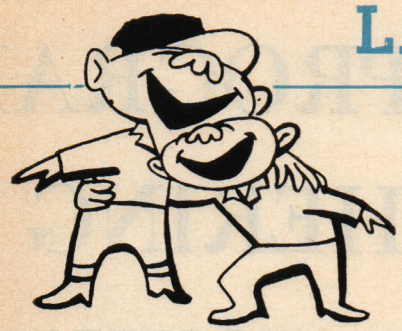
Zagri also reported the appointment of screening committees, registration committees, finance committees, and wives' committees in more than 20 Joint Councils to date.

(TOP) President Hoffa addresses Local 743's Steward Council in Chicago calling for strong political action from IBT members.

(CENTER) Teamsters in St. Paul, Minnesota map plans for political program aimed at amending vicious K-L-G bill passed by the 86th Congress.

(BOTTOM) Teamster Wives and Friends for Wayne Morse enthusiastically endorsed the IBT's Political Education Department. Picture was taken in Portland, Oregon.

LAUGH LOAD



Popular Attraction

Snarled the foreman: "I know you men all wish I were dead so you could stamp on my grave."

The men glared at him for a moment. Then one of them said: "Not me, I hate to stand in line."

Bro. C. C. Long,
Lexington, Ky.

●

Loving Mother

Judge: "Madam, you are charged with creeping into your husband's room and shooting him with a bow and arrow. Will you now tell the jury your reason for such an act?"

"Of course, your honor. I didn't want to wake the children!"

●

Stretching It Too Far

The juror was trying to get himself excused from service.

"I owe a man $25 I borrowed," he told the judge, "and he's leaving town for good today. I want to catch him before he gets to the train and pay him the money."

"You're excused," the judge announced. "I don't want anybody on the jury who can lie like that."

●

First Lesson

Doting mother: "And what did mamma's litle dear learn at school today?"

Eight year old: "I learned two guys not to call me 'mamma's little boy.' "

●

Deep Mourning

A much married movie star has gone into deep mourning for her latest husband, whom she loved very much. She insists on black olives in her Martini.

Every Convenience

Overheard in a fashionable sports car salon: "This model has a top speed of 155 miles per hour, and she'll stop on a dime."

"What happens then?"

"A small putty knife emerges and scrapes you off the windshield."

●

Patient Man, But . . .

The Freight Handler for Fleety-Fleet Express was overpaid $25 on his paycheck. He said not a word about it. A week later the accounting department deducted the overpayment.

Freight Handler: "What's the big idea? My paycheck is short $25!"

Warehouse Foreman: "You were overpaid $25 last week. And you didn't say a word about it, incidentally."

Freight Handler: "O.K. I know that! I can overlook one mistake, but when it happens twice, then it's time to say something!"

●

Up To You

"Would we go up, or down, if the elevator cables broke?", asked a stout lady passenger.

Sick and tired of such stupid questions, the elevator operator answered, "Lady, that depends on the kind of life you've led!"

●

Right Away, Sir

"Where to, Sir?", asked the chauffeur of his wealthy boss.

"Just drive off the nearest cliff, James. I'm committing suicide!"

●

Chrome Dome

Two ladies were discussing what they would wear to the country club dance:

"We're supposed to wear something to match our husband's hair," said Mrs. Jones. "So, I'll have to wear black. What will you wear?"

"Goodness!", gasped Mrs. Smith. "I don't think I'll go!"

It's Been Around

Remarked the blonde to her girl friend who was showing off her engagement ring, "I've not only seen it, I've worn it."

Bro. C. G. Long,
Lexington, Ky.

●

Big Stamps

Gypsy Trucker: "Hey, you guys, get a load of this. I just bought a second-hand tractor from a friend of mine in Detroit and it cost me $9500."

Truck Driver Friends: "You can't kid us, boy. As tight as you are, you'd never pay $9500 for a second-hand tractor."

Gypsy Trucker: "Not ordinarily. But he sent it airmail collect."

●

All Shook Up

"You just can't come in here like this and ask for a raise," the boss said to his newest employe. "You must work yourself up."

"But I did," the employe replied. "Look. I'm trembling all over."

●

Crazy

Speaking of oddities, there was this sick comedian who didn't feel like working one night—so he called in well.

●

No Seconds

"Am I late for my dinner?" asked the cannibal prince.

"Yes, everybody's eaten," answered the cannibal king.

●

Kid Story

A youngster walked into a bank and informed an attendant that he'd like to open an account with $20. The new accounts official gave the lad an amused smile and asked how he had been able to save so much money. "Selling magazine subscriptions," the lad told him.

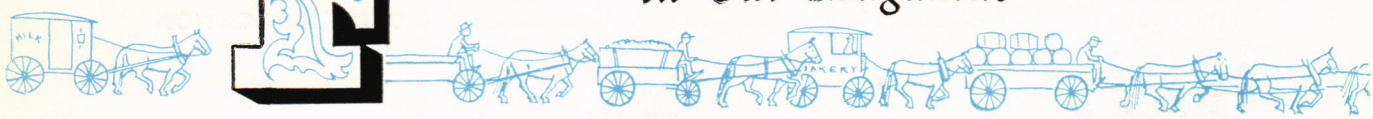
●

Bad Start

First girl—I don't see how you could become engaged to that old Mr. Waggs. He hasn't a tooth in his head and is nearly bald.

Second girl—Well, my dear, you shouldn't be too severe on him—he was born that way.

FIFTY YEARS AGO
in Our Magazine



(From Teamsters' Magazine, May, 1910)

Pulling Together

A THOUGHTFUL editorial by President Dan Tobin in the May, 1910, issue of THE TEAMSTER reflects the great strain that our president was under because of the various efforts then being made by unworthy members to split our union.

It is never easy for a man to watch his friends turn on him and for no apparent reason except to serve their own selfish ends. This was the case in Chicago and New York when several trusted officers of our International decided to break with those in authority and attempted to run the whole show their own way, to the detriment of the entire organization. There was no bitterness, however, in these words of President Tobin that dealt with this matter.

"An official who is a wrongdoer and not absolutely honest may last for a time in the movement of the workers, but he cannot expect to last for any great length of time, because of the fact that the workers are becoming more intelligent every day through education received from the literature of labor and from organization in its different forms. For this reason it takes but a short time to find out the members or the officials who are not absolutely honest and just.

"Therefore, we advise our members throughout the country to carefully consider their every action and weigh same in the scales of justice before taking any decisive step. After carefully considering all phases on any certain question, if the judgment of the membership of a local union decides on a certain move, no mistakes will be made if the matter is discussed from the point of justice governing all sides of the parties to the controversy.

"This quarreling and fighting among ourselves will never get us anything. Work together, pull together, build up your organization, and you are doing more good for this country than the men who fought to free us from the bonds of a foreign nation or those who offered up their lives to free the southern slaves."

The Soft Sell

As a chain is no stronger than its weakest link, so is the strength of the labor movement gauged by the quality and quantity of its numbers.

Although the trade union movement has grown enormously since its founding days late in the 19th century, there are still vast numbers today who still remain unorganized. Those outside the fold, so to speak, lie principally among the white collar workers, the professional and semi-professional ranks.

To organize these members, organized labor has formed highly trained teams that go out among these unorganized groups and attempt to lead them into trade unions. This is a costly and time consuming procedure but it is the only way to get the job done.

An article in our magazine 50 years ago this month, however, offered a very simple and effective formula, we believe, for bringing the unorganized worker into the fold. This is how it was explained.

"The most successful plan of organization, the plan that has given the best results and brought the greatest returns, the best one of all, is the one which can be carried on by every individual trade unionist every day of his life.

"The grand rally and public meeting with social accompaniments at times makes a wonderful showing and brings intermittent results and is sometimes fairly successful, exhibiting permanence in membership as well as an increase in members, but its success is not to be compared with the success that attends the efforts of the individual working quietly as an organizer.

"It is the trade unionist imbued with the true spirit of unionism, working quietly, without price or promise, working steadily for the good he can do, sometimes mocked, jeered and misunderstood and often discriminated against and maligned, but who struggles manfully along the path he has selected, that shows the biggest gains in the end.

"There is not a man throughout our organization who has not the opportunity, in a greater or lesser degree, of adding to our membership by this means if he but make the effort.

"It is the worker in the shop who quietly informs his non-unionist fellow workman about the benefits that will come through organization and who points out that it is a duty we owe to each other to be mutually helpful that builds up the trade union and has placed it in the position that it now occupies."

How many are there among our membership today who meet daily with others doing the same type of work that they are doing but remain outside the trade union movement? Some of these men may be wavering on the brink of decision and only a small push on our part would bring them over. Then will all benefit from this small but important effort on our part.

DRIVE

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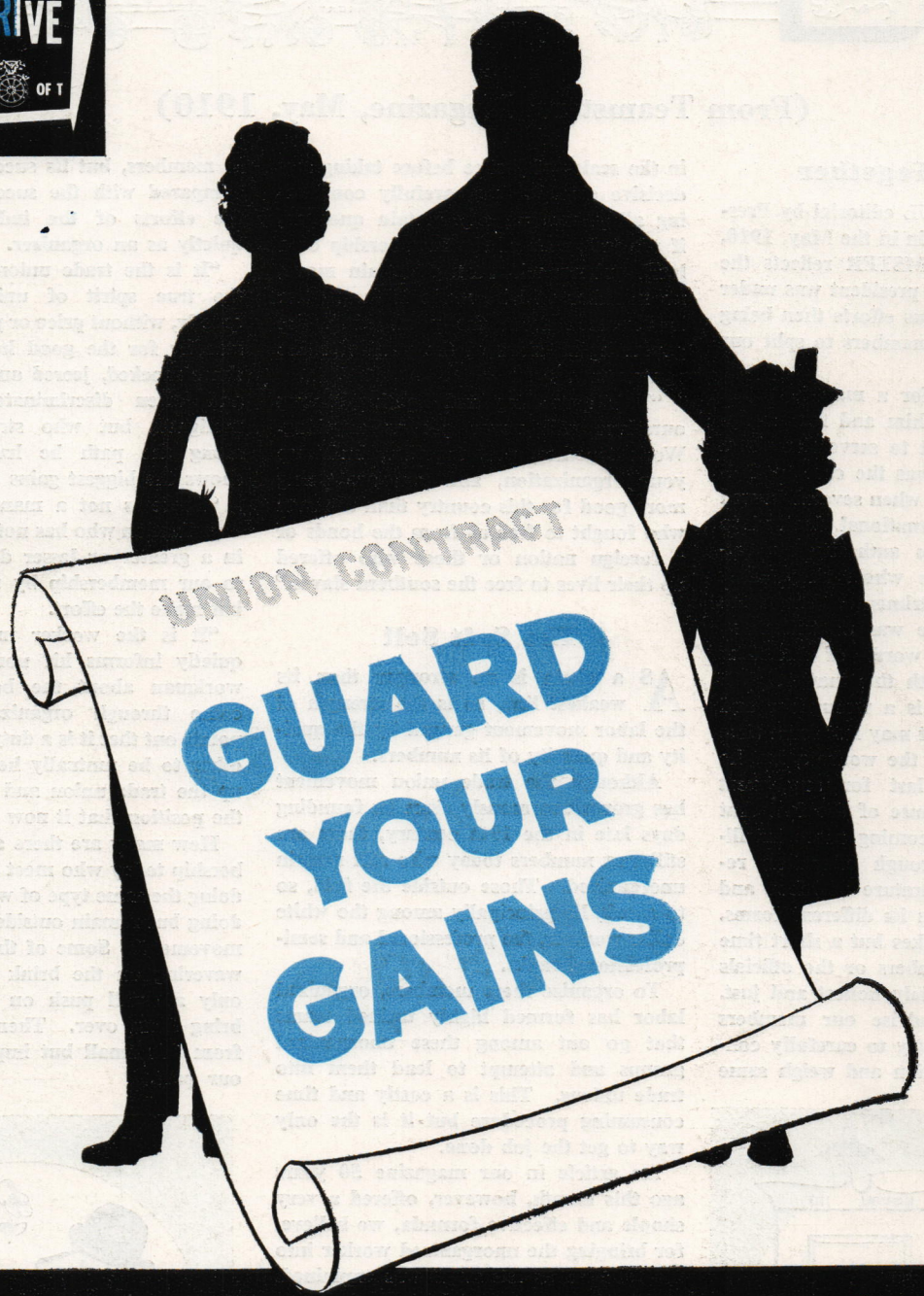
DEMOCRATIC **R**EPUBLICAN **I**NDEPENDENT **V**OTER **E**DUCATION



REGISTER AND VOTE

INTERNATIONAL BROTHERHOOD OF TEAMSTERS